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A

B I L L

To enlarge the Powers of an Act of the Fourth and Fifth Years of Her present Majesty, empowering the Commissioners of Her Majesty's Woods to raise Money for certain Improvements in the Metropolis, on the Security of the Land Revenues of the Crown, within the County of Middlesex and City of London.

WHEREAS by an Act passed in the Session of Parliament holden in the fourth and fifth years of the reign of Her present Majesty, intituled, "An Act to empower the Commissioners of Her Majesty's Woods to raise Money for certain Improvements in the Metropolis, on the Security of the Land Revenues of the Crown, within the County of Middlesex and City of London," it was enacted, that it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, and they were thereby authorized and empowered, by and with the consent and approbation in writing of the Lord High Treasurer, or of the Commissioners for executing the office of Lord High Treasurer of the United Kingdom, or any three or more of them, notwithstanding any provisions, restrictions or clauses contained in any Act or Acts of Parliament relating to Her Majesty's Land Revenue, from time to time to borrow and take up at any rate of interest not exceeding Five Pounds per centum per annum, and on such terms and conditions as they should think proper, such sum or sums of money as the said Commissioners, with such consent and approbation as aforesaid, should judge necessary for the purpose of carrying into effect and completing the several improvements and new streets authorized and directed to be made by them by the several Acts therein recited or referred to, on mortgage of all or any part or parts of the houses, buildings, lands, tenements and hereditaments of or belonging to Her Majesty, Her heirs and successors within the county of Middlesex

Preamble: 4 & 5 Vict., c. 40.

if such mortgage or mortgages had not been made, and the said last-mentioned Act and this Act had not passed, so as the rent to be reserved in respect of any hereditaments to be comprised in any new lease to be made in pursuance of any surrendered lease be not less in amount than the rent which was reserved by the surrendered lease, or when more than one lease shall be granted of any hereditaments comprised in a lease which shall have been surrendered, so as the aggregate amount of rents to be reserved by the separate leases shall not be less in amount than the rent reserved by the lease so surrendered.

4. Saving rights of Distress, and entry of Mortgagees.

And be it Enacted, That the person or persons, bodies or body to whom any such mortgage as aforesaid has been or shall be granted, shall (in respect of such leases so to be granted, and during the continuance of such mortgage securities) have such and the same powers of distress, entry or otherwise, for the recovery of the rents, by any such leases so to be granted, reserved, and shall have the full benefit of the covenants in such leases to be contained, and on the part of the lessees to be performed, as they would have had if they had been parties to such leases, and the rents and rights of distress and entry had been reserved to them, and the covenants entered into with them in all respects whatsoever, but not so as to give any subsequent mortgagee any right or priority over the prior mortgagee.

5. Act may be amended or repealed this Session.

And be it Enacted, That this Act, or any part thereof, may be amended or repealed by any Act to be passed in the present Session of Parliament.

A

B I L L

For better regulating the Buildings of the Metropolitan Districts, and to provide for the Drainage thereof.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS by the several Acts mentioned in Schedule (A.) to this Act annexed, provisions are made for regulating the construction of Buildings in the Metropolis, and the Neighbourhood thereof, within certain limits therein set forth: BUT FORASMUCH as Buildings have since been extended in nearly continuous lines or streets far beyond such limits, so that they do not now include all the places to which the provisions of such Acts, according to the purposes thereof, ought to apply; and moreover such provisions require Alteration and Amendment; IT IS EXPEDIENT to extend such Limits, and otherwise to amend such Acts:

Extension of Limits, and amendment of Law.

Improvement of Drainage.

AND FORASMUCH as in many parts of the Metropolis and the Neighbourhood thereof the drainage of the Houses is so imperfect as to endanger the health of the Inhabitants, IT IS EXPEDIENT to make provision for facilitating and promoting the Improvement of such Drainage:

Securing a sufficient width of Streets, &c.

AND FORASMUCH as by reason of the narrowness of Streets, Lanes and Alleys, and the want of a thoroughfare in many places, the due ventilation of crowded neighbourhoods is often impeded, and the health of the Inhabitants thereby endangered, and from the close contiguity of the opposite houses, the risk of accident by fire is extended; IT IS EXPEDIENT to make provision with regard to the Streets and other ways of the Metropolis, for securing a sufficient width thereof:

Improper use of Buildings.

AND FORASMUCH as many buildings and parts of buildings unfit for dwellings are used for that purpose, and other buildings fit for dwellings are improperly used, whereby disease is fostered and propagated; IT IS EXPEDIENT to discourage and prohibit such use thereof:

Regulation of explosive Works.

AND FORASMUCH as by the carrying on in populous neighbourhoods of certain Works, in which materials of an explosive or inflammable kind are used, the risk of accidents arising from such Works is much increased; IT IS EXPEDIENT to regulate, not only the construction of the Buildings in which such dangerous Works are carried on, but also to provide for the same being carried on in Buildings at safe distances from other Buildings which are used either for habitation or for trade in populous neighbourhoods:

Regulation of deleterious Works.

AND FORASMUCH as by the carrying on of certain Works of a noisome kind, or in which deleterious materials are used, or deleterious products are created, the health and comfort of the Inhabitants are extensively impaired and endangered; IT IS EXPEDIENT to make provision for the adoption of all such expedients as either have been or shall be devised for carrying on such businesses, so as to render them as little noisome or deleterious as possible to the Inhabitants of the neighbourhood; and if there be no such expedients, or if such expedients be not available in a sufficient degree, then for the carrying on of such noisome and unwholesome businesses at safer distances from other Buildings used for habitation:

Execution of Act, and superintendence thereof.

AND FORASMUCH as great diversity of practice has obtained among the Officers appointed in pursuance of the said Acts to superintend the execution thereof in the several Districts to which such Acts apply, and the means at present provided for determining the numerous matters in question which constantly arise, tend to promote such diversity, to increase the expense, and to retard the operations of persons engaged in building; IT IS EXPEDIENT to make further provision for regulating the office of Surveyor of such several Districts, and to provide for the appointment of Officers to superintend the execution of this Act throughout all the Districts to which it is to apply; and also to determine sundry matters in question incident thereto, as well as to exercise in certain cases, and under certain checks and control, a discretion in the relaxation of the fixed rules, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business:

GENERAL PROVISION

NOW for all the several purposes above mentioned, and for the purpose of consolidating the provisions of the law relating to the construction and the use of Buildings in the Metropolis and its Neighbourhood;

bourhood; BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT with regard to this Act generally, so far as relates to the operation thereof in reference to time, it shall come into operation at the following times; (that is to say) as to the Buildings, Streets and other such matters, on the *First* day of *January* One thousand eight hundred and Forty-*five*, and as to the districts and the officers to be appointed in pursuance hereof, on the *First* day of *September* next; AND THAT on the said *First* day of *January* all the Acts mentioned in the Schedule (A.) hereunto annexed, except so far as in the said Schedule is provided, shall be and are hereby repealed.

GENERAL PROVISIONS.

1. Operation of Act.

Statutes repealed.

AND BE IT DECLARED, with regard to this Act generally, so far as relates to the construction of certain terms and expressions used therein, THAT the following terms and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context, or by the nature of the subject-matter; that is to say,—

2. Construction of words.

The word "Street" to include every square, circus, crescent, street, road, place, row, mews, lane, or place along which carriages can pass; and that, whether there be or be not, in addition to the carriage-way, a footway paved or otherwise:

The word "Alley" to include any court, alley, passage, or other public place, which can be used as a footway only:

The word "Square," as applied to any area of building, to contain One hundred superficial Feet:

The word "Floor" to mean the horizontal platform forming the base of any story, and to include the timber or bricks, or any other substance which constitutes such platform:

The word "Story" to include the full thickness of such floor, as well as the space between the upper surface of one floor and the under surface of the floor next above it; or if there be no floor, then the space between the surface of the ground and the under surface of the floor next above it:

The term "external wall" to comprise all outer walls of buildings now or hereafter to be built, which shall stand wholly upon ground of the owner of such buildings, and shall not be used or intended to be used as party walls under the definition hereinafter contained, whether the same shall adjoin or not to other outer or to party walls:

The term "party wall" to comprise all walls which shall be used or built in order to be used as a separation of two or more buildings for the occupation of different families, or actually occupied by different families, and also all walls which shall stand upon ground not wholly belonging to the same ownership or occupation:

The term "already built" used in reference to buildings, to apply to buildings built before the *First* day of January One thousand eight hundred and Forty-*five*, or commenced before

GENERAL PROVISIONS.

that day, and covered in and rendered fit for use within Twelve Months thereafter; and used in reference to streets and alleys, to apply to all streets or alleys made or laid out before that day, and which shall be formed and rendered fit for use within Twelve Months thereafter:

The term "hereafter to be built," used in reference to buildings, to apply to all buildings to be built or commenced after the *First* day of January One thousand eight hundred and Forty-*five*, or which, being commenced, shall not be covered in within Twelve Months thereafter; and used in reference to streets and alleys, to apply to all streets or alleys laid out before the said *First* day of January, or which being laid out shall not be rendered fit for use within Twelve Months thereafter:

The word "Owner" to apply to every person in possession or receipt, either of the whole or of any part of the rents or profits of any ground or tenement, or in the occupation of such ground or tenement, other than a tenant from year to year, or a tenant at will:

The term "Official Referees" to mean the persons appointed in pursuance of this Act to be Official Referees of Metropolitan Buildings:

The word "Surveyor" to apply to all surveyors to be appointed in pursuance of this Act, or whose appointment is confirmed by this Act; and also to all deputy or assistant surveyors to be appointed under this Act:

The words "the Surveyor," used without any addition, to mean the surveyor in whose district the buildings, street or alley or other subject-matter shall be, or any deputy or assistant surveyor duly acting in his behalf:

The word "Month" to mean a calendar month:

The expression "The Commissioners of Works and Buildings" to mean the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings:

The expression "Justice of the Peace" to mean a Justice of the Peace for the county, division, or liberty within which the building or other subject-matter, or any part thereof, is situate; unless it be situate within the City of London or the Liberties thereof, in reference to which any matter or thing elsewhere required or authorized to be done either by one or by two or more Justices of the Peace, may be done either by the Lord Mayor of the City of London, or by any one, two or more Justices of the Peace for the said City; or unless the subject-matter be situate in the district of any Police Court of the Metropolis, in reference to which any matter or thing elsewhere required or authorized to be done by two or more Justices may be done by one Magistrate:

And, generally, whensoever the name of an officer having local jurisdiction in respect of his office is referred to, without mention of the locality to which the jurisdiction extends, such reference is to be understood to indicate the officer having jurisdiction in that place, within which is situate the building or other subject-matter, or any part thereof to which such reference applies:

GENERAL PROVISIONS.

And, subject as aforesaid to the context, and to the nature of the subject-matter, words importing the singular number are to be understood to apply to a plurality of persons or things; and words importing the masculine gender are to be understood to apply to persons of the feminine gender; and words importing an individual, are to be understood to apply to a corporation or company, or other body of persons.

3. Extent of operation of Act.

AND BE IT ENACTED, with regard to this Act generally, so far as relates to the operation thereof in reference to localities, THAT the operation of this Act shall extend to all places within the following limits; (that is to say)

To all such places lying on the North side or left bank of the River Thames as are within the exterior boundaries of the parishes of Fulham, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford, Bromley, Poplar and Shadwell:

And to such part of the parish of Chelsea as lies North of the said parish of Kensington:

And to all such parts and places lying on the South side or right bank of the said River as are within the exterior boundaries of the parishes of Woolwich, Charlton, Greenwich, Deptford, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting and Wandsworth:

And to all places lying within Two hundred Yards from the exterior boundaries of the district hereby defined.

4. Power to extend the limits of Act.

AND FORASMUCH as, partly by the rapid increase of population in the neighbourhoods of the district to which this Act is to apply, and partly by the tendency of this Act to induce building speculation in such neighbourhoods in order to evade the provisions thereof, the evils which have arisen in the districts not now subject to regulation, will in all probability arise in such neighbourhoods; IT IS EXPEDIENT to make provision for the prevention of such evils; and if they should arise, for the remedy thereof, Now for those purposes, BE IT ENACTED, with regard to this Act generally, so far as relates to the application thereof to other parts and places in the neighbourhood of the districts appointed by this Act, whether such districts immediately adjoin such parts or places or not, THAT IF, from the growing increase of the population or otherwise, it shall appear to Her Majesty in Council to be expedient that the provisions of this Act should be extended to any place within Twelve Miles of Charing-cross, in the City of Westminster, THEN it shall be lawful for Her Majesty in Council to direct, by Order in Council, that at or from a time to be named in such Order, the provisions of this Act shall apply to such places; and, at or from such time, all such provisions of whatever nature, whether penal or otherwise, so far as they shall be capable of application to such places, shall be and are hereby

BUILDINGS NEW AND OLD.

hereby declared to apply thereto, as if such places were expressly named herein.

5. Regulation of Buildings.

AND now generally, for the purpose of regulating the building and the rebuilding upon sites of former buildings, and the enlarging and altering of all Buildings, of what nature soever, within the limits aforesaid; BE IT ENACTED, with regard to every such building hereafter to be built (except the buildings comprised in Schedule (B.) hereto annexed), so far as relates to building the same, and with regard to every such building, either already or hereafter built, (except the said buildings comprised in the said Schedule (B.)), so far as relates to the rebuilding, and the enlarging or altering the same, and that whether such buildings be built or rebuilt on old or new foundations, or partly on old and partly on new foundations, THAT every such building shall be built, rebuilt, enlarged or altered in reference to the walls, whether external or party-walls, and to the fences and the party fence walls, and to the number and height of the stories or rooms therein, and to the chimnies, and to the roofs, and to the timbers, and to the drains, and to the projections, and to any other parts or appendages of every such building, in the manner and of the materials, and in every other respect in conformity with the several particulars, rules and directions which are specified and set forth in the several Schedules (C.), (D.), (E.), (F.), (G.), (H.), (K.), to this Act annexed, according to the classes of buildings, and the rates of such classes to which such buildings are by the Schedule (C.) declared to belong; subject nevertheless to any other rules and directions in this Act contained in the same behalf; and subject in every case of doubt, difference or dissatisfaction in respect thereof, either between any parties concerned or between any party concerned and the Surveyor of the district, to the determination of the Official Referees, upon a reference of the matter in question, according to the provisions of this Act in that behalf.

Rates of Buildings, and thicknesses of walls and footings, and rules concerning Buildings.

6. Buildings under supervision of Official Referees.

AND BE IT ENACTED, with regard to all buildings of the sixth rate of the First or Dwelling-house class, and to all buildings of the sixth rate of the Second or Warehouse class, and to all buildings of the Third or Public Buildings class (except the buildings hereinbefore excepted), so far as relates to the supervision thereof, THAT, subject to the provisions in the Schedule (C.) and elsewhere in this Act made in respect thereof, every such building shall be built under the special supervision of the Official Referees, according to the provisions of this Act in that behalf, as well as under the ordinary supervision of the Surveyor; and if any difference arise as to whether any such building be liable to such special supervision, the same shall be determined by the Official Referees; subject nevertheless to an appeal, at the instance of any party interested, to the Commissioners of Works and Buildings, whose decision in the matter shall be final.

AND

BUILDINGS NEW AND OLD

AND WHEREAS, by several Acts now in force, certain buildings and structures have been exempted from the operation of the Act mentioned in the Schedule (A.), hereto annexed, for the regulation of buildings and party-walls within the cities of London and Westminster, and the liberties thereof, and other the parishes and places therein mentioned; BUT FORASMUCH as provision is hereby made for the supervision of buildings of whatever kind, with a view to the public security, insomuch that the reasons whereon such exemptions were made do not now apply; IT IS EXPEDIENT to repeal such exemptions, and to make provision for such special supervision of such buildings as the nature thereof shall require; NOW FOR THAT PURPOSE, Be it Enacted, with regard to the buildings hereinbefore exempted and comprised in Schedule (B.), so far as relates to the supervision thereof, THAT, notwithstanding any thing contained to the contrary in any Act or Acts now in force, every such building or other structure shall be subject to special supervision by the Official Referees, according to the provisions of this Act in that behalf.

7. Special supervision of exempted Buildings.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to any building of whatever kind, which is not hereby expressly assigned to any class or rate of a class, so far as relates to the application of this Act thereto, THAT if any party be desirous of erecting any building which does not come within any one of the said classes, or of any rate of such classes, THEN such building shall be built in accordance to such class and rate as shall be directed by the Surveyor, subject, as in other cases of doubt, difference or dissatisfaction, to an appeal to the Official Referees.

8. Buildings not within Rates.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to any building of whatever class, so far as relates to the modification of any written contract or agreement now in force for erecting or altering such building, other than a contract or agreement in the nature of a building lease, THAT it shall not be lawful to execute such contract otherwise than in conformity with the provisions of this Act; but it shall be lawful for either party, and he is hereby entitled to deviate from such contract, so far as any part thereof may remain to be executed after this Act shall have come into operation; and the alterations rendered necessary by this Act shall be performed as if this Act had been in force when this contract was entered into; AND THAT IF the parties thereto shall disagree about the difference of the costs and expenses of the works when performed according to the provisions of this Act, and the works as stipulated for in such contract, THEN, upon notice being given in writing by one party to the other, it shall be lawful for either party, and he is hereby entitled, to refer the

9. Modification of Building Contracts.

Reference to Official Referees.

matter to the Surveyor, who shall determine the same, subject to appeal as aforesaid to the Official Referees; and the award of such Official Referees shall be final and binding on all the parties, and in all respects as if such award had formed part of the contract; AND the costs of the reference shall be borne by all, or any, or either of the parties, in such manner and proportion as the Surveyor, or, in case of appeal, as the Official Referees, shall appoint.

10. Modification of Building Leases.

PROVIDED ALSO, AND BE IT ENACTED, with regard to any building of whatever class, so far as relates to the modification of any lease, or agreement for a lease, being of the nature of a building lease, whereby any person may be bound to erect buildings, THAT, notwithstanding anything herein contained, it shall be the duty of such person and he is hereby required to erect every building agreed to be built by such lease or agreement, according to the conditions rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, without the lessee or tenant being entitled to any compensation, whether by payment of money or reduction of rent or otherwise.

11. Commissioners of Works and Buildings empowered to modify Rules generally.

AND, FOR THE PURPOSE of preventing the express provisions of this Act from hindering the adoption of improvements, and of providing for the adoption of expedients better adapted to accomplish the purposes thereof; BE IT ENACTED, with regard to every building, of whatever class, so far as relates to the modification of any rules hereby prescribed, THAT if, in the opinion of the Official Referees, the rules by this Act imposed shall be inapplicable, or will defeat the objects of this Act, and that by the adoption of any modification of the rulse hereby prescribed, its objects will be attained either better or as effectually, it shall be the duty of such Official Referees to report their opinion thereon, stating the grounds of such their opinion, to the Commissioners of Works and Buildings; AND THAT, IF on the investigation thereof it shall appear to the said Commissioners that such opinion is well founded, THEN it shall be lawful for the said Commissioners or any Two of them to direct that such modification may be made as will, in their opinion, give effect to the purposes of this Act; AND THAT ALTHOUGH such Official Referees shall be of opinion that such modifications are not requisite or admissible, yet if any party interested present to the Official Referees a representation, setting forth the grounds whereon such modification is claimed, it shall be the duty of the Official Referees, and they are hereby required to report such representation, as well as their opinion thereon, to the said Commissioners, with the grounds of such their report and opinion; AND THAT thereupon, if the said Commissioners think fit, it shall

Report of Official Referees.

Extent of Modification.

Representation by parties.

Order thereupon.

be

be lawful for them or any Two of them to direct the Official Referees to make such order in the matter as may appear to them to be requisite; AND THAT, with regard to such application, so far as relates to the payment of the costs thereof, it shall be lawful for the said Commissioners to direct such Official Referees to make such order relative to the costs of such reference to them, as to the said Commissioners shall seem fit.

Costs of application.

12.
Power to modify provisions of th Act as to existing Buildings, to be rebuilt.

AND BE IT ENACTED, with regard to buildings already built, so far as relates to the rebuilding thereof in conformity with this Act, in respect of the required area, or in any other respect than the required height and thickness of walls, THAT IF a full compliance with the provisions of this Act be attended by extreme loss and inconvenience, THEN, subject to the report of the Official Referees, and to the consent of the Commissioners of Works and Buildings, and such terms as the said Commissioners may impose in that behalf, it shall be lawful for the parties concerned to rebuild such buildings on the site of the old buildings as near as may be practicable, BUT SO THAT, nevertheless, both the party-walls and the external walls be of the required height and thickness.

13.
BUILDERS.

Works to be executed. Notice to Surveyors.

AND BE IT ENACTED, with regard to the works to be executed in pursuance of this Act, so far as relates to the supervision thereof by the Surveyors, THAT *Two* Days before the following acts or events; that is to say,—

Before any building shall be begun to be built; and also,

Before any addition or alteration, which by this Act is placed under the supervision of the Surveyor, shall be made to any building; and also,

Before any party-wall, external-wall, chimney-stack or flues shall be begun to be built, pulled down, rebuilt, cut into, or altered; and also,

Before any opening shall be made in any party-wall; and also,

Before any other matter or thing shall be done which by this Act is placed under the supervision of the Surveyor;

It shall be the duty of the builder (by which term is to be understood, both in this provision and elsewhere throughout this Act, the master-builder or other person employed to execute any work, OR IF there be no master-builder or other person so employed, THEN the owner of the building, or other person for whom or by whose order such work is to be done), and he is hereby required to give to the Surveyor, at his office, notice in the terms specified in the form (Number One) contained in the Schedule of Notices annexed to this Act, or to the like effect; AND THAT IF any builder neglect to give such notice, or begin to build, or do any of the things aforesaid, before such notice, or before the expiration of such period of Two Days; THEN, in every such case, the party offending shall forfeit for every such default, and pay to such

£. 20 penalty for neglect to give notice, &c.;

BUILDERS.

Surveyor, Treble the amount of the fees which such Surveyor would have been entitled to receive for his trouble in inspecting the same, and shall also forfeit for every such default a sum not exceeding Twenty Pounds; AND THAT IF, for any period exceeding Three Months, any builder having duly begun any building, requiring compliance with the provisions of this Act, shall suspend the progress of such building, and shall again go on with the same; OR IF, during the progress thereof, the builder be changed; THEN, in any such case, *Two* Days before such builder or such other person shall enter upon the performance of the work, it shall be the duty of such builder to give notice to the Surveyor; which notices must be in the terms specified in the forms (Numbers Two and Three) contained in the Schedule of Notices annexed to this Act, or to the like effect; AND must be given to the Surveyor, or left at the Surveyor's office, in like manner as is required upon beginning any new building; AND THAT IF any builder make default or neglect to give or leave such notice, he shall forfeit for every such offence a sum not exceeding Twenty Pounds; AND THAT IF any such building, chimney or wall be begun to be built, pulled down, rebuilt, cut into or altered as aforesaid, or be proceeded with after any suspension of the progress thereof before such notice has been given; OR IF such Surveyor or the Official Referees be refused admittance to inspect the same premises, THEN such building or work shall be liable to be abated as a nuisance under the provisions herein contained.

£. 20 penalty for not giving fresh notices.

Penalty for beginning without notice;

or refusal to admit Surveyor.

BUILDINGS GENERALLY.

14. Supervision of Works.

AND BE IT ENACTED, with regard to such buildings and works, so far as relates to the supervision thereof, THAT IF in building, pulling down, rebuilding, cutting into or altering any part of any building, or party wall or external wall, or chimney-stack or flue, any work, or any other thing be done contrary to or not conformably with the rules and directions of this Act; THEN forthwith it shall be the duty of the Surveyor and he is hereby required to give Forty-eight Hours' notice to the builder to amend any such irregularity which he shall deem to have been committed; AND, after the expiration of such notice, to proceed to inspect the work; AND THAT, IF the work be so far advanced that he cannot ascertain whether the irregularity has been committed or not, or exists or not, THEN it shall be lawful for him and he is hereby empowered to order any work to be cut into, laid open or pulled down, which shall in his opinion prevent his ascertaining whether any such irregularity exists or not; AND THAT IF, within Forty-eight Hours, the builder to whom any such notice shall have been given, refuse or fail to amend any irregular work, or any builder refuse, when ordered by the Surveyor, to cut into, lay open or pull down any work which shall in his opinion prevent his ascertaining whether such irregular work exists or not, THEN, as soon as conveniently shall be, it shall be the duty of the Surveyor to give

Notice of Irregularities to Builders and others.

To cut into works.

Amendment of Works.

give information thereof to the Official Referees; AND THAT upon the receipt of such information, it shall be the duty of such Official Referees, and they are hereby required to proceed to hear the matter, AND IF any breach of the rules, regulations and directions of this Act be found to have been committed, OR IF there appear good reason to suppose any such breach has been committed and is concealed, THEN it shall be lawful for the Official Referees, or any Two of them, and they are hereby authorized to direct by their award that such building, party wall, external wall, chimney-stack, flue or other thing, or such part thereof as they shall deem necessary, to be amended, removed, cut into, laid open, or pulled down; AND THAT all the costs, charges and expenses of the said work, and of the said application to the Official Referees, shall be borne by such party or parties as the Official Referees shall determine.

Proceedings thereon by Official Referees.

Costs.

15. AND NOW, FOR THE PURPOSE of making provision for the supervision of buildings of the Sixth Rate of the First or Dwelling-house Class, and of the Sixth Rate of the Second or Warehouse Class, and of all buildings of the Third or Public Building Class, (except the buildings hereinbefore excepted); BE IT ENACTED, with regard to every such building, so far as relates to the special supervision thereof, THAT when all the walls of any such building shall have been built to their full height, and all the timbers of the floors, roofs and partitions shall have been fixed, it shall be the duty of the architect or builder, and he is hereby required, to give notice thereof to the Official Referees; AND IF the Official Referees be of opinion that such building is subject to the special supervision herein provided, THEN within *Seven* Days after such notice it shall be their duty to survey the said building; AND THAT, IF they approve of the same, THEN within *Seven* Days after such survey, to certify such approval under their hands to the architect or builder; OR THAT IF any part of the walls, timbers, roof or internal supports appear to such Official Referees defective, insufficient or insecure, THEN, within the said *Seven* Days after such survey, they are hereby required to give to such architect or builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; AND THAT, upon the receipt of such notice, it shall be the duty of the said architect or builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts; AND THAT, until the Official Referees shall be satisfied, and shall have certified in writing their approval as aforesaid, it shall not be lawful to cover up any such parts; AND THAT, upon completion of every such building, it shall be the duty of the architect or builder to give fresh notice to the Official Referees; AND THAT, thereupon, or within seven days after such notice, it shall be the duty of the Official Referees

15. Special supervision of highest-rate Buildings. Penalty.

Notice to Official Referees.

Survey.

Approval.

Disapproval.

Amendment of defects.

Notice of completion.

New survey.

BUILDINGS GENERALLY.

to survey the same ; AND THAT, IF upon such survey it shall appear that such building has been built sufficiently strong, THEN it shall be their duty to certify accordingly, which certificate must be under their hands and the seal of office of Registrar of Metropolitan Buildings ;

Certificate.

Prohibition of use.

AND THAT, until such certificate shall have been made, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the Official Referees under their hands and the seal of office of the Registrar of Metropolitan Buildings ; AND THAT, IF before the certificate of satisfaction shall have been made, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, THEN, on conviction thereof before Two Justices of the Peace, the owner or occupier of such building shall forfeit for such offence a sum not less than *Five* Pounds, nor exceeding *Five hundred* Pounds, for every day during which such building shall be so used, without having obtained such certificate of satisfaction, or such express authority as aforesaid ; and one half thereof shall go to the person giving information, and the other half to the poor of the parish in which such building shall be situate.

Penalty.

16.

Special supervision of Buildings in Schedule (B.)

AND BE IT ENACTED, with regard to the Buildings comprised in Schedule (B.) to this Act annexed, so far as relates to the supervision thereof, THAT before the Builder begin to build the same, it shall be the duty of such Architect or Builder and he is hereby required to give notice thereof to the Official Referees, and also, at the same time,

Survey by Official Referees.

to transmit the plans thereof for their inspection ; AND THAT forthwith thereupon it shall be the duty of the Official Referees and they are hereby required to proceed to survey the situation of the intended building, with a view to ascertain whether such building can be erected on such situation with due regard to the security of the public ; AND

Occasional inspection.

THAT from time to time, during the progress of such building, it shall be the duty of such Official Referees and they are hereby directed to

Notice of deficiences.

inspect the same with a view to ascertain the sufficiency thereof ; AND THAT IF such building or any part thereof appear to such Official Referees defective, insufficient or insecure, THEN they are hereby required to give to such Architect or Builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must

Amendment of defects.

be in writing ; AND THAT, upon the receipt of such notice, it shall be the duty of the said Architect or Builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts ;

Approval by Official Referees.

AND THAT, until the Official Referees shall be satisfied, and shall have certified in writing their approval as aforesaid, it shall not be

Notice of completion.

lawful to cover up any such parts ; AND THAT, upon completion of every such Building, it shall be the duty of the Architect or Builder

New survey.

to give fresh notice to the Official Referees ; AND THAT thereupon, or within Seven Days after such notice, it shall be the duty of the Official

Referees

Referees to survey the same; AND THAT IF upon such survey it shall appear that such building has been built sufficiently strong, THEN it shall be their duty to certify accordingly, which certificate must be under their hands and the seal of office of Registrar of Metropolitan Buildings; AND THAT, until such certificate shall have been made, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the Official Referees, under their hands and the seal of office of the Registrar of Metropolitan Buildings; AND THAT IF, before the certificate of satisfaction shall have been made, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, THEN, on conviction thereof before Two Justices of the Peace, the owner or occupier of such building shall forfeit for such offence a sum not less than *Five* Pounds, nor exceeding *One hundred* Pounds, for every day during which such building shall be so used without having obtained such certificate of satisfaction, or such express authority as aforesaid; and one-half thereof shall go to the person giving information, and the other half to the poor of the parish in which such building shall be situate.

Certificate.

Prohibition of use.

Penalty.

17

Entry on Premises.

AND BE IT ENACTED, with regard to buildings and works, so far as relates to the entry thereon for the supervision thereof, THAT, at all times during the progress of any operations in respect thereof within the meaning of this Act, it shall be lawful for the Surveyor, and for the Official Referees, and they are hereby respectively authorized to enter upon the premises upon which such operations have been commenced; AND THAT IF any person refuse to admit the Surveyor, or the Official Referees authorized under this Act, at any reasonable hours, from time to time to inspect any building in course of construction, demolition, alteration or re-construction, THEN in every such case, on conviction thereof, the party offending shall forfeit for every such offence a sum not exceeding *Twenty* Pounds; and such building or work shall be liable to be abated as a nuisance under the provisions herein contained in that behalf; AND THAT IF the Surveyor or the Official Referees be refused admittance from time to time, at any reasonable hour, to make inspection of any work, THEN for that purpose it shall be lawful for such Surveyor or for such Official Referees, and they are hereby empowered, by and with the aid of a Peace Officer, to enter upon the ground, building and premises where the same shall be.

Refusal to permit inspection.

Forcible Entry.

18.

All buildings not according to this Act declared a nuisance.

AND for the purpose of more effectually enforcing the observance of the provisions of this Act, BE IT ENACTED, with regard to any buildings, drains, timber buildings, chimnies and flues, party-walls, party-fence-walls, external walls and projections, and every other part of every building of every Class, or Rate of any Class, which shall be hereafter built, rebuilt, enlarged or altered within

BUILDINGS GENERALLY.

the limits of this Act, contrary to the provisions hereof, so far as relates to the removal thereof, THAT IF the same be not built, rebuilt, enlarged or altered in the manner and of the materials and in every other respect according to, and in conformity with, the several rules and directions which are in this Act particularly specified; AND IF any person build or begin to build, or cause the building or beginning to build, or alter or cause to be altered, or use or cause to be used any part of any ground or building, projection, drain or other thing contrary thereunto; AND IF, in either of such cases, it so appear by the certificate of the Official Referees; THEN the said building, projection, drain or other thing, or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered, or so used, shall be deemed a nuisance; AND THAT thereupon it shall be the duty of the Surveyor, and he is hereby directed to summon the builder before any Two Justices of the Peace; AND THAT thereupon it shall be the duty of such builder, as such Justices shall require, and he is hereby required to enter into a recognizance in such sum, as the said Justices shall appoint, for abating and taking down the same within such convenient time as the said Justices shall respectively appoint, or otherwise for amending the same according to such rules and directions as are herein contained, and also for paying the costs, charges and expenses incurred by the Surveyor in laying the information and obtaining the conviction, including such compensation for the Surveyor's loss of time as the said Justices shall think fit; AND THAT IF the party so required fail to enter into such recognizance, THEN it shall be lawful for either of such Justices or any Justice, and they are hereby required to commit such builder to the common gaol of the city, county or liberty where the offence shall be committed, there to remain without bail or mainprize until he shall have abated or demolished or otherwise amended such irregular building, or such nuisance shall be abated or demolished by order of such Justices respectively, (which order the said Justices are hereby empowered to make), and until the costs, charges and expenses thereof, and of all operations and proceedings in relation thereto, shall have been paid: AND FURTHER, THAT IF application be made to any Two or more Justices, THEN, thereupon, it shall be their duty, and they are hereby empowered to order the Surveyor or any other person to abate or demolish such nuisance, and to order the persons authorized by them so to abate or demolish the same, to sell and dispose of the materials thereof, and, out of the monies arising by such sale, to pay to themselves, and all persons by them employed for such purpose, the reasonable charges for abating or demolishing such nuisance, and also such costs and expenses as aforesaid, and to pay the surplus monies arising by such sale (if any) to the owner of the building; AND THAT IF the monies arising by such sale be not sufficient to pay such charges, THEN such

Summons before Justices.

Recognizances to pull down and amend.

Imprisonment.

Removal of buildings declared nuisances.

Expenses.

ADJOINING PROPERTIES.

Party Walls. Party Fences. Intermixed Buildings.

such owner, OR, IF there be no owner, THEN it shall be the duty of the occupier to make good the deficiency; AND IF he fail, THEN he shall be liable to the same remedies for the recovery thereof as are by this Act provided concerning the expense of taking down ruinous buildings, and putting up hoards for the safety of passengers.

19. Fifty Shillings penalty on workmen offending.

AND BE IT ENACTED, with regard to any building or work, so far as relates to the non-observance of the provisions of this Act in that behalf by workmen and others, THAT IF any workman, labourer, servant or other person employed in any building, or in the alteration, fitting up or decoration of any building, wilfully, carelessly or negligently, and without the direction, privity or consent of the person causing such work to be done, do anything in or about such building contrary to the rules and directions of this Act, THEN upon conviction thereof before any Two Justices of the Peace, upon the oath of one or more credible witness or witnesses (which oath the said Justices and every such Justice is hereby empowered and required to administer), every such offender shall be liable to forfeit for every such offence a sum not exceeding Fifty Shillings; AND THAT IF any such forfeiture be not paid upon or immediately after such conviction, THEN it shall be the duty of any such Justice to whom application shall be made, to commit the offenders by warrant under the hand and seal of such Justices to the common gaol for any term not exceeding One Month, at the discretion of such Justices.

Imprisonment.

20. Execution of works.

AND FORASMUCH as, from time to time, occasion hath arisen and will hereafter arise to execute the following works in relation to adjoining buildings and premises, parted by the same party-wall or party-fence wall, but belonging to different owners, or occupied by different persons, or to buildings intermixed, belonging to different owners, or occupied by different persons; namely,—

The reparation of the party-walls by which such premises shall be parted:

The pulling down and rebuilding of such party-walls:

The raising of such party-walls:

The reparation of party fence-walls:

The rebuilding of such party fence-walls:

The raising of such party fence-walls:

The pulling down timber partitions parting the buildings of different owners, or occupied by different persons, and in lieu thereof to build proper party-walls:

The pulling down buildings built over public ways, or having rooms or stories, the property of different persons, or occupied by different persons, lying intermixed, for the purpose of building proper party-walls or party-arches:

PARTY WALLS. PARTY FENCES. INTERMIXED BUILDINGS.

And generally the performance of other necessary works incident to the connection of such party-walls or party fence-walls with the premises adjoining: IT IS EXPEDIENT to make provision, as well for facilitating the execution of such works by any such owner desirous to execute the same—who is herein denominated the "building-owner;" as for protecting the interests of the owner of the adjoining premises—who is herein denominated the "adjoining owner;" NOW FOR THAT PURPOSE, BE IT ENACTED, with regard to all premises parted by a party-wall or party fence-wall, or parted by timber partitions, and with regard to all intermixed properties not so parted, so far as relates to the execution of any such works by any owner of any such premises, THAT IF the adjoining owner shall have consented thereto, OR IF, without such consent, the required notice of such work shall have been given by or on the part of the building-owner to such adjoining owner, THEN, subject to such modification as shall be made by virtue of the provision in that behalf; AND subject to the provision for supplying the want of consent of the owners; AND subject moreover to the respective conditions hereby prescribed, with regard to such works respectively, as well as to the payment of the costs of such works, and to the sanction or to the award of the Surveyors or of the Official Referees, as hereby prescribed in reference thereto, it shall be lawful for every such building-owner and he is hereby authorized or required to execute such works.

21. Consent of, or notice to, adjoining owner.

AND BE IT ENACTED, with regard to such works, so far as relates to the notice thereof, THAT unless the adjoining owner consent thereto, it shall not be lawful for the "building-owner" to execute such works, until he have given notice thereof to such "adjoining owner;" AND every such notice, with regard to the pulling down, rebuilding or repairing of party-walls or party fence-walls, must be given *One* Month, at the least, before the survey of the work is to be made, and *Six* Months, at the least, before the work is to be commenced; AND every such notice, with regard to the pulling down and rebuilding intermixed walls and timber partitions, must be given Six Months, at the least, before such work is to be commenced; AND every such notice must be in the form or to the effect of the notice (Number *Eight*) for that purpose contained in the Schedule of Notices hereunto annexed.

22. Modification of work to suit adjoining owner.

AND BE IT ENACTED, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises or to the convenience of the adjoining owner or his tenant, THAT IF the adjoining owner desire that any modification be made in the work so as to render it suitable to his premises, OR IF he desire that the work be delayed, so as to cause it to be executed at a more seasonable or a more convenient time in reference to the business or to the

the family or domestic arrangements of such adjoining owner or his tenants, THEN, within *Seven* Days after the receipt of notice thereof, it shall be the duty of the building-owner, and he is hereby required, to signify his consent to, or dissent from, such modification or delay; AND THAT IF the building-owner do not within such *Seven* Days signify his consent to such modification or delay, THEN it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building-owner to delay the work until the Official Referees shall have determined thereon; AND THAT IF within *Seven* Days thereafter application be made in writing to the Official Referees, and notice thereof be given to the building-owner, THEN it shall be the duty of the building-owner to delay the same till the decision of such Official Referees shall have been given thereon; AND THAT IF, within the period of *Six* Months from the date of the first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, THEN, subject to the provisions of this Act with regard to such works, it shall be lawful for the building-owner and he is hereby authorized to proceed to execute the same.

Delay of operations.

Application to Official Referees.

Authority to build.

23. Supplying want of consent of adjoining owners.

AND BE IT ENACTED, with regard to any such works hereby authorized to be done in relation to party-walls, party-arches, party fence-walls, or other such structures, belonging to the owners of adjoining buildings or parting adjoining premises, so far as relates to supplying the want of consent of the adjoining owners, THAT IF the adjoining premises be unoccupied, OR IF the owner thereof cannot be found, OR IF the owner, although found, cannot, by reason of legal disability or otherwise, consent to the work, OR IF the owner will not consent thereto, OR IF differences arise amongst the parties concerned, THEN the notice required to be given in respect of such work must be served both on the Surveyor and on the Official Referees, in addition to such other parties entitled to notice under this Act upon whom such notice can be served; AND THAT forthwith on the receipt of such notice it shall be the duty of the Surveyor and he is hereby required to give notice to the parties by whom such work is to be executed, and to any one or more Surveyors or other agents by them appointed, as to the day and hour when he will view the premises; AND at such time the Surveyor of the district is hereby authorized to proceed to inspect such premises accordingly, and to certify to the Official Referees,

Notice of Inspection by Surveyor.

First, Whether such work ought to be done or not; and

Secondly, If the same ought to be done, whether it ought to be done in the proposed manner; and

Thirdly, The site whereon the party-wall should be built; and with regard to intermixed buildings, what party-arches may be necessary over or under any rooms of such buildings so intended to be rebuilt; and

Fourthly, The quantity of the soil or ground or other parts of the premises (if any) necessary to be laid to or taken from the house

of the person desirous to rebuild, to the house of the person permitting him to erect a party-wall or party-arch; and

Fifthly, The compensation (if any) which should be made and paid by the building-owner, of either or any of the premises affected thereby, to the adjoining owner, in lieu of the lessening either of the said buildings by such party-wall or party-arch, or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby to any of the said parties;

Notice to parties.

AND THAT, upon the receipt of such certificate, it shall be the duty of the Official Referees, and they are hereby required, to cause notice thereof to be given to the parties or to such of them as are known;

Confirmation by Official Referees.

AND THAT IF within *Seven* Days after such notice to the parties, the certificate be not appealed against, AND IF the Official Referees be of opinion that the work is proper to be done, and the compensation is fair, THEN it shall be lawful for the Official Referees to confirm such certificate, and to authorize the building-owner to proceed with the works, as if the consent of the adjoining owner had been obtained: AND THAT IF any party concerned shall appeal against the certificate of the Surveyor as to the work to be done, or as to the compensation, or as to any other matter referred to in such certificate, in pursuance of the above provisions, THEN it shall be the duty of the Official Referees, and they are hereby required to appoint one of their number to survey the building in question; AND THAT for that purpose it shall be the duty of the Official Referee so appointed, and he is hereby required to give notice to the parties, and to any one or more Surveyors or other agents by them appointed, as to the time when he will view the premises; AND THAT at such time it shall be the duty of such Referee, and he is hereby authorized to view such premises accordingly, and to inquire into the matters appealed against, and to certify to the Official Referees his opinion thereon; AND THAT, upon such certificate being made, it shall be lawful for the Official Referees to make their award, thereby either confirming, or reversing or modifying, as to them the case may seem to require, the certificate of the surveyor, and appointing by whom and in what proportions the expenses of the surveys and of the reports thereon are to be paid; and such award shall be final and conclusive; AND with regard to any works by such award authorized, so far as relates to the proceedings of the building-owner, THAT IF, upon the making of the award, the periods of the notices by this Act prescribed with regard to works of that nature have elapsed, THEN immediately upon the making of the award, BUT IF such periods have not elapsed, THEN as soon after the making of the award as such periods shall have elapsed, it shall be lawful for the building-owner, his agents, servants and workmen, to proceed to execute the works.

Proceedings on appeal against certificate.

Notice by Official Referees.

Survey.

Award.

Works authorized.

24. Reparation and rebuilding at joint expense.

AND BE IT ENACTED, with regard to any party-wall, party-arch or external wall used wholly or in part as a party fence-wall, so far

far as relates to the reparation and rebuilding thereof, at the joint expense of the owners of the buildings parted thereby, THAT IF such party structure be so defective or so far out of repair as to render it necessary to pull down and rebuild the same, or any part thereof, THEN, on notice being given by the owner of one of the buildings to the adjoining owner, it shall be lawful for the building-owner to require a survey, certificate and award authorizing the execution of such reparation or rebuilding, according to the provisions hereinbefore contained in that behalf.

25. Rebuilding of party walls.

AND BE IT ENACTED, with regard to party-walls, so far as relates to the rebuilding thereof, at the expense of the building-owner, THAT IF the owner of one of the buildings desire to rebuild such party-wall, THEN, on giving to the adjoining owner the required notice of *Six* Months, it shall be lawful for such building-owner, and he is hereby entitled to pull down and rebuild such party-wall; BUT UPON condition that he do pay all the costs and charges thereof, and also all the expenses incidental to the execution of the work, including therein the fees and expenses of the survey, and the fees of the Surveyors and in respect of any services performed by the Official Referees.

26. Rebuilding a party-wall.

AND BE IT ENACTED, with regard to any party-wall so far as the rebuilding thereof; THAT IF the owner of one of the buildings parted by such party-wall rebuild such building of a higher rate, and do not pull down such party-wall and build a proper wall in lieu thereof, THEN it shall be his duty, and he is hereby required, to build up an external wall against such party-wall.

Building of an external wall against a party-wall.

27. Damage arising from erection of external wall against a party-wall.

AND BE IT ENACTED, with regard to an external wall built against a party-wall, so far as relates to the operations incident thereto, and to the making good any damage occasioned thereby, THAT IF it be necessary to excavate or dig out the ground against the wall of any adjoining building, for the purpose of erecting a wall thereon, THEN it shall be lawful for the building-owner and he is hereby entitled so to do; BUT upon condition, that the said building-owner do, at his own costs, shore up and underpin such wall, or such part thereof, to its full thickness, and to the full depth of such excavation, with good sound stock-bricks and tiles or slates bedded in cement; such underpinning to be done in a workmanlike and substantial manner; AND THAT IF, for the purpose of erecting such external wall, it be necessary to cut away part of the footings of such party-wall on the side next to the wall so to be built, and any part of the breasts and chimney-shafts belonging to the building about to be rebuilt, as shall project beyond the perpendicular face of such party-wall, in the lowest floor thereof, THEN, on giving notice of such intention in

Cutting into footings and chimnies.

 writing

writing to the owner of the adjoining building, at least One Month before commencing operations; AND on the expiration of such notice, it shall be lawful for the building-owner and he is hereby authorized to cut away such portion of the footings, breasts and chimney-shafts aforesaid; BUT so that the same be done, and the brick-work where cut be again made good in cement, under the superintendence and to the satisfaction of the Surveyor.

28. Making good such damage.

PROVIDED always, AND BE IT ENACTED, with regard to such party-wall, so far as relates to the making good of any such damage, THAT IF it be so damaged and injured by such cutting away, as in the opinion of the adjoining owner or occupier to be ruinous or dangerous, THEN, upon application for that purpose, it shall be the duty of the Surveyor, and he is hereby required to survey such wall; AND

Survey.

IF upon the survey thereof it be found ruinous or dangerous, THEN to condemn it; AND THAT, thereupon, it shall be the duty of the building-owner to pull down and rebuild such party-wall; AND

Damage from carelessness.

THAT IF, in the opinion of the Surveyor or of the Official Referees, such damage or injury shall have been occasioned by want of due care on the part of the building-owner, THEN it shall be the duty of such building-owner and he is hereby required to pull down and rebuild such party-wall; and that at his own costs and charges, including therein all the costs and expenses incident to such survey, and the pulling down and rebuilding of such party-wall, and the reinstating and making good all the internal finishings and decorations damaged

Rebuilding.

thereby; AND THAT IF the owner of the building to be rebuilt do not proceed with all due despatch to pull down and rebuild such party-wall, and to reinstate and make good all the internal finishings and decorations of the adjoining premises, and to pay the costs and charges and expenses of the survey, THEN it shall be lawful for the adjoining owner so to do, and he is hereby entitled to recover all the costs and expenses in respect thereof from such owner, his heirs, executors, administrators or assigns.

29. Rebuilding of sound party-walls.

AND BE IT ENACTED, with regard to any sound party-wall against which an external wall shall have been built, and which shall have been suffered to remain so far as relates to the re-building thereof, THAT IF, while such party-wall continues sound, the adjoining building be pulled down or rebuilt, and such party-wall be pulled down, THEN the owner of such adjoining building shall not be entitled to more than his just proportion of the materials thereof, nor to more than his just proportion of the ground on which such party-wall was built, nor shall he build on more than his just proportion of the said ground, unless he shall have agreed with and satisfied the owner of the building so previously rebuilt for

his

his half thereof; AND THAT IF the said owners cannot agree concerning the division of such materials, or of such ground, or of the building thereon, or concerning the reimbursement of the party first rebuilding as aforesaid, THEN the price and all matters in difference, including the sale and purchase of the ground in question, shall be settled by a reference to the Official Referees, whose award shall be final.

Reference to Official Referees.

30.

Raising Buildings Future Buildings.

AND BE IT ENACTED, with regard to every building hereafter built, so far as relates to the raising thereof, THAT it shall be lawful to raise any building, BUT SO THAT, nevertheless, the party and external walls and chimnies thereof, when so raised, be of the materials and of the several heights and thicknesses hereinbefore described for party and external walls and chimnies of the rate such building shall be of when so raised; AND with regard to buildings already built, so far as relates to the raising thereof, THAT, although the walls of such buildings be not of the thicknesses prescribed by this Act, if, in the opinion of the Surveyor, such walls be sufficiently secure to allow of the raising thereof, THEN it shall be lawful to raise any such building already built to an additional height, not exceeding *Ten* Feet; AND with regard to any building adjoining one which shall be raised, so far as relates to the raising of the chimnies thereof, THAT IF any building be raised, it shall be the duty of the owner of such building, and he is hereby required to build up, at his own expense, the party-walls between his own and any adjoining building, and all flues and chimney-stacks belonging thereto; AND with regard to any building raised, so far as relates to the use thereof by the adjoining owner, THAT IF at any time the owner of any such adjoining building make use of any portion of the part raised of such party-wall, it shall be lawful for the owner of the premises so first raised, to claim, and he is hereby entitled to recover the cost of a proportionate part of the portion which shall be so used, together with the cost of such parts of the chimney-stacks as belong thereto.

Existing Buildings.

Chimnies of adjoining Buildings.

Use of raised Buildings.

31.

Repairing and rebuilding of party fence-walls.

AND BE IT ENACTED, with regard to party fence-walls, so far as relates to the reparation and rebuilding thereof, THAT it shall be lawful for the owner of any of the premises parted thereby to repair, pull down and rebuild the same; AND IF the wall be below the height of Nine Feet from the ground on either side, THEN either to raise it to that height, or to pull it down and to rebuild it to that height; BUT upon condition that he do pay all the expenses thereof; AND THAT IF a building be to be erected against such party fence-wall, and such wall be not conformable to the requisites prescribed for a proper party-wall for a building of that Class and Rate, THEN it shall be lawful for the building-owner, and he is hereby entitled to pull down such party fence-wall; BUT upon condition that he do pay all the expenses thereof;

Deficient party fence-wall.

thereof; and also that he do make good every damage which shall accrue to such adjoining premises by such rebuilding.

32. Pulling down party timber partitions.

AND BE IT ENACTED, with regard to the party timber partitions of existing buildings belonging to different owners, so far as relates to the pulling down thereof, and any wall under or over the same, THAT IF one of the buildings be rebuilt, OR IF one of the fronts of such buildings be taken down to the height of one story, or for a space equal to one-fourth of such front from the level of the second floor upwards, THEN, without the consent of the adjoining owner, but upon giving the requisite notice, it shall be the duty of the building-owner, and he is hereby required, to pull down such timber partitions, and the walls under or over the same, and in lieu thereof to build a proper party-wall; AND that at the expense of the owners of all the premises parted thereby.

33. Pulling down intermixed Buildings.

AND BE IT ENACTED, with regard to buildings built over public ways, or having rooms or stories, the property of different persons, lying intermixed (except Inns of Court hereinafter provided for), so far as relates to the pulling down and laying the parts thereof to each other, THAT IF a party-wall or party-arch cannot be built without pulling down such buildings, and so laying parts thereof to each other, AND IF, in default of the consent of all proper parties, the Official Referees authorize such works, THEN it shall be lawful for the owner of either of the said buildings to execute the same; BUT SO THAT the party-walls or party-arches be conformable to the provisions of this Act, and the directions of the said Official Referees in their award made in that behalf.

34. Exceptions of Inns of Court, &c.

AND BE IT ENACTED, with regard to the rooms or chambers in the Inns of Court, (that is to say) in Serjeants' Inn, Chancery-lane, or in any of the four Inns of Court, or in any of the Inns of Chancery, or any other Inns set apart for the study or practice of the law, so far as relates to the building of party-walls, THAT the walls or divisions between the several rooms and chambers in such Inns, belonging to and communicating with each separate and distinct staircase, shall be deemed to be party-walls within the meaning of this Act, and as such must be built in conformity with the regulations and clauses herein contained relating to party-walls.

35. Power of entry on premises to effect works.

AND for the purpose of facilitating and regulating the execution of any works authorized by this Act, or by any award, in pursuance thereof, in respect of any party-wall or party-arch, parting the buildings or grounds belonging to different owners, or in the occupation of different persons, or in respect of intermixed buildings; BE IT ENACTED, with regard to any such works, so far as relates to the power to enter the

the adjoining premises in order to execute the same, THAT IF such work have been duly authorized, either by the consent of the parties competent to give such consent, or by the award or certificate of the Official Referees, THEN, at any time between the hours of Six in the morning and Seven in the afternoon (Sundays excepted), it shall be lawful for the building-owner, or any other person acting in his behalf, accompanied by a constable or other officer of the peace, and they are hereby respectively empowered, to enter on the premises of the adjoining owner, so far as may be necessary for executing such work; AND THAT IF the outer-door of such building be shut, and being thereunto required, the person therein refuse to open the same, OR IF such building be empty and unoccupied, THEN it shall be lawful to break open such outer-door; AND IF any goods, furniture or other thing obstruct the building of such intended party-wall or party-arch, or the pulling down any wall, partition or other thing necessary to be pulled down and removed in order to the building such intended party-wall or party-arch, THEN to remove such goods, furniture and things to some other part of the same premises, OR IF there be no room on the premises sufficient for that purpose, to remove them to any other place of safe custody; AND THAT from and after such entry, and at all usual times of working, it shall be lawful for the builder employed to erect such intended party-wall or party-arch, and for his servants and all others employed by him, to enter into and upon the premises, and abide therein the usual times of working, as well for the shoring up of the said building so broke into and entered upon, and for taking down and removing any party-wall, partition, wainscot or other thing necessary to be taken down and removed for the purpose aforesaid, as to build such intended party-wall or party-arch; AND THAT IF in any manner any such owner or other person hinder or obstruct any workman employed for any of the purposes aforesaid, or wilfully damage or injure the said works, THEN every such person so offending shall forfeit for every such offence a sum not exceeding Ten Pounds.

Opening doors and removal of goods, &c.

Continuance of entry.

Penalty for hindrance.

36. Stopping of openings in external walls abutting on other premises.

AND NOW, FOR THE PURPOSE of further protecting the interests of adjoining owners, BE IT ENACTED, with regard to external walls adjoining the ground or building of another owner, so far as relates to the making of openings therein, THAT IF, without the consent in writing of the owner of such ground or building, any opening be made in any such wall, THEN it shall be lawful for such owner, and he is hereby entitled, to require the owner of the premises in which such opening shall be made to stop up the same with brick-work; AND THAT IF, within One Month after such notice, such stoppage be not effected, THEN it shall be lawful for such owner, and he is hereby entitled, either by himself or his workmen, with tools, implements and materials, to cause such openings so to be stopped, and he is also

Stoppage thereof.

hereby entitled to be repaid the costs thereof; AND with regard to such Costs, so far as relates to the adjustment thereof, THAT IF such owner refuse to make payment thereof, OR IF there be any dispute as to the amount thereof, THEN, on application for the purpose to the Official Referees, by either of the parties concerned, it shall be lawful for the person by whom they have been incurred, and he is hereby entitled, to refer the matter of such dispute to the Official Referees, and to hear their determination thereon; AND THAT it shall be the duty of such Official Referees to give to the applicant a certificate in relation thereto; AND THAT IF any party liable to pay any sum of money under such certificate fail to do so, THEN it shall be lawful for the party entitled to such costs to recover the same, in the manner hereinafter provided for the recovery of the costs, charges and expenses of executing any works in pursuance of this Act.

Costs of stopping up.

Certificate of Official Referees.

Recovery of costs.

37. Building of party-walls next vacant ground.

AND BE IT ENACTED, with regard to walls, so far as relates to the building thereof on vacant ground at the line of junction of premises belonging to different owners or in different occupations, THAT One Month before the owner of any piece of vacant ground, or ground not hitherto built upon, shall build any building adjoining to another piece of vacant ground, or ground not hitherto built upon, or build a fence-wall for such piece of ground, IT shall be his duty, and he is hereby required to give to the owner or occupier of such adjoining vacant ground, a notice, which must be in writing, and must set forth his desire to build a party-wall or party fence-wall, and describe the thicknesses and dimensions of such desired party-wall or party fence-wall; AND THAT IF such adjoining owner shall signify his consent in writing, THEN the same must be built partly on the ground of one of the said owners or occupiers, and partly on the ground of the other owner, which last-mentioned part is to be paid for as is hereinafter directed by such other owner or occupier; BUT if he do not signify such consent, THEN it shall be the duty of the building-owner to build an external wall for such building, and fence-wall for such ground entirely upon his own ground.

Consent of adjoining owner.

38. Building of chimney-breasts, &c., in new party-wall for adjoining-owner.

AND BE IT ENACTED, with regard to any new party-wall, built on the line of junction of premises belonging to different owners, so far as relates to the providing of chimney-breasts and other accommodation for the adjoining owner, THAT when the owner of any piece of vacant ground shall have obtained the consent of the adjoining-owner to build a party-wall on the line of junction of their respective premises, THEN, Ten Days at the least before beginning to build such party-wall, it shall be the duty of the building-owner to give the adjoining-owner notice thereof; AND THAT IF in due time the adjoining-owner shall give instructions in writing or by a plan, THEN it

Instructions by adjoining owner.

it shall be the duty of the building-owner to construct, if practicable, such and so many chimney-jambs, breasts and flues of chimneys, in all such parts of such party-wall as shall be by such instructions required, and to leave such recesses in every such wall as may be so required; BUT SO THAT they be conformable with the directions of this Act concerning party-walls and chimneys; AND THAT thereupon it shall be lawful for the building-owner to claim, and he is hereby entitled to recover from the adjoining owner all the expenses of constructing such chimney-jambs, breasts and flues of chimneys and recesses, as provided by this Act in that behalf.

RUINOUS BUILDINGS.

Reimbursement of expenses.

AND WHEREAS buildings within the limits of this Act are often, either from litigated titles thereto, or from the obstinacy, neglect or poverty of the owners thereof, or of the parties interested therein, or from other causes, in so ruinous a condition that passengers are endangered thereby; NOW for the purpose of making provision in that behalf; BE IT ENACTED, with regard to ruinous buildings, so far as relates to repairing or pulling down the same, THAT, upon receiving information of any building being in a ruinous and dangerous condition, it shall be the duty of the Surveyor, and of the overseers for the time being of the parish or place in which the same shall be, and they are hereby respectively required, to apply forthwith to the Official Referees to authorize a survey to be made thereof; AND THAT, thereupon, it shall be lawful for the Official Referees to direct the Surveyor to make such survey; AND THAT, thereupon, it shall be the duty of such Surveyor to act in all respects as in the case of a survey of party-walls; AND THAT, upon the receipt of the certificate of the Surveyor, it shall be lawful for the Official Referees, and they are hereby required to cause a copy thereof to be transmitted, IF the premises be within the city of London, THEN to the Court of Lord Mayor and Aldermen, and IF they be elsewhere, THEN to the Overseers of the poor of the parish or place in which such premises shall be; AND THAT, thereupon, it shall be the duty of such Mayor and Court of Aldermen and Overseers to cause, with all convenient speed, a proper and sufficient hoard to be put up for the safety of all passengers; AND to cause notice in writing to be given to the owner of such building to repair or pull down the same or any part thereof as the case may require, within Fourteen Days then next ensuing; AND THAT IF within the said Fourteen Days the repair or demolition thereof be not begun and be not completed as soon as the nature of the case will admit, THEN on a declaration being made before the said Lord Mayor or a Justice of the Peace, of such notice having been so given, (which declaration the said Lord Mayor and Justice are hereby respectively empowered and required to receive), it shall be lawful for the said Lord Mayor and Court of Aldermen, and they are hereby

RUINOUS BUILDINGS.

39. Repairing and rebuilding.

Application to Official Referees.

Survey.

Notice to Lord Mayor, &c., and to Overseers.

Erection of hoards, and Notice to parties.

Repairs.

RUINOUS BUILDINGS.

hereby authorized and required, out of the cash in the Chamber of London, and also for every such Overseer of the poor by and out of the money in his hands, and they are hereby severally authorized and required, with all convenient speed, to order and cause such building or such part thereof so certified to be in a ruinous and dangerous condition, as shall be necessary for the safety of the passengers, to be repaired or pulled down, or secured in such manner as shall from time to time be requisite: PROVIDED always, That if such Lord Mayor or Aldermen, or such Overseers, appeal against such certificate, it shall be the duty of the Official Referees to proceed to survey, to certify and to award in all respects as in the case of an appeal from the certificate of the Surveyor with reference to party-walls or intermixed buildings; AND THAT if such Official Referees certify that the said premises are ruinous and dangerous, it shall be the duty of the said Lord Mayor or the said Overseers to repair or pull down such building as aforesaid.

Appeal against survey.

Demolition.

40.

Disposal of materials to pay costs.

AND BE IT ENACTED, with regard to any such ruinous buildings so pulled down, so far as relates to the disposal of the materials thereof and to the application of the proceeds, THAT it shall be lawful for the said Lord Mayor and Court of Aldermen, or the said Overseers, to sell and dispose of such of the materials as they shall judge necessary, and out of the monies arising from the sale thereof to reimburse to themselves, the Surveyors and Official Referees, and every person by them respectively employed for the purposes aforesaid, all the charges of the survey and appeal, and of putting up every such hoard, and of repairing, pulling down and securing such premises, and of selling the said materials as aforesaid, or so much thereof as the monies arising by such sale will extend to; AND THAT IF there be any surplus after payment of all expenses, THEN, upon demand thereof made by such owner, it shall be the duty of the said Lord Mayor, or of the said Overseers, to account for and pay such surplus of the monies arising by such sale to the owner of such building; AND THAT IF no such demand be made, THEN such surplus shall, as regards places within the city of London, and the liberties thereof, be paid to the Chamberlain of the city; and as regards all other places, such surplus shall be added to the monies raised as rates for the relief of the poor of the parish or place, and accounted for accordingly: PROVIDED NEVERTHELESS, That, at any time within Six Years from the deposit of such surplus, it shall be lawful for any such owner, his executors or administrators, to claim and he and they are hereby entitled to recover such surplus; AND the said Lord Mayor and Aldermen of the city of London, as regards the said city and liberties thereof, are hereby required to pay such surplus out of the cash in the Chamber of London; and every overseer, as regards places not within the said city or the liberties thereof, is hereby required to pay such surplus

Payment of surplus on demand.

If no demand.

City of London or Overseers to refund within Six Years.

surplus out of any monies raised or to be raised by any rate for the relief of the poor.

41.

If a deficiency, to be paid by owner;

AND BE IT ENACTED, with regard to such ruinous buildings, so far as relates to the expenses of putting up such hoard, repairing, pulling down and securing such buildings, and selling the materials beyond the amount thereof, which shall have been satisfied by the application thereto of the proceeds of the materials, THAT IF the monies arising from such sale be insufficient to repay all such expenses, THEN, from time to time, such deficiency shall be paid by the owner of every such building, if known; AND THAT IF, on demand thereof, such owner fail to pay such deficiency, THEN it shall be lawful for the Lord Mayor for the time being, if such ruinous building in question be within the city of London or the liberties thereof, or if elsewhere, for two or more Justices of the Peace, to levy the amount thereof by warrant under their hands and seals, by distress and sale of the goods and chattels of such owner, if any such can be found; AND THAT if no such owner can be met with, or being met with, shall not, on demand, pay the said deficiency, and no sufficient distress of the goods and chattels of such owner can be found, THEN it shall be lawful for the person who shall at any time thereafter occupy any such building, or the ground where the same stood, and he is hereby authorized and required to pay and deduct the same out of the rent thereof; AND THAT IF he neglect or refuse to pay such deficiency, THEN it shall be lawful for the said Lord Mayor, or two or more such Justices of the Peace, and they are hereby empowered and required to cause the same to be levied by distress and sale of the goods and chattels of any occupier of the premises, together with the costs of every such distress and sale; AND THAT IF the premises be situate wthin the city of London and its liberties, it shall be the duty of the person by whom the same shall be received, and he is hereby required to pay the amount to the Chamberlain, to be by him from time to time placed to the credit of the cash of the said city of London; AND if the premises, in respect of which such money shall be received or recovered, be not situate within the said city of London and the liberties thereof, THEN to pay the amount received to the Overseers of the poor for the time being of the parish or place where the premises shall be situate, to be by them placed to the account of the said parish, in aid of the poor rate of the parish or place.

Or levied by warrant of distress;

Or occupier to pay and deduct from rent;

Or by distress on occupier.

Payment of money to Chamberlain or to the Overseers.

42.

Repair of ruinous Chimnies, &c.

AND BE IT ENACTED, with regard to ruinous chimnies, roofs and projections, so far as relates to the repairing thereof, THAT IF a chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof, or any projection from the front walls of any building, be deemed by the Surveyor to be in danger of falling; THEN it shall be the duty of such Surveyor and he

Notice.

RUINOUS BUILDINGS.

is hereby required to require the occupier of such building, OR IF there be no occupier, THEN the owner thereof, to take down or secure the same to the satisfaction of such Surveyor, within Thirty-six Hours after notice thereof shall have been given; AND THAT IF, within the time specified, such occupier, or some other person interested in such building, do not begin to take down or secure the same, and, as soon as the nature of the case will admit, complete such taking down or securing of the same, to the satisfaction of such Surveyor, THEN it shall be the duty of such Surveyor to give information thereof to a Justice of the Peace; AND, thereupon, it shall be the duty of such Justice of the Peace to proceed to cause such chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof or projection from the front or side wall of such building as shall be considered by such Surveyor in danger of falling, to be forthwith taken down or secured; AND THAT if there be no occupier or known owner, THEN it shall be lawful for such Justice to direct that the reasonable expenses, to be certified by the Official Referees, be paid by the Overseers of the parish or place in which such building shall be situated; AND THAT IF thereafter the owner of such building should become known, OR IF the building should become occupied, THEN it shall be lawful for the Overseers of the poor and they are hereby entitled to recover the amount of such expenses from such owner or from such occupier, as in the case of ruinous buildings hereinbefore provided for; AND THAT IF within the time limited the occupier or some other person interested in such building do not take down or secure the same, THEN for every day during which the same shall so remain unrepaired or not sufficiently secured, such occupier or the owner, if there be no occupier, shall forfeit and pay the sum of *Five* Pounds; AND THAT such occupier or owner shall also pay the Surveyor's fees and all other costs, charges and expenses attendant upon any such taking down or securing the building; AND all such Surveyor's fees, and other costs, charges and expenses may be recovered and levied in the same manner as such penalty: PROVIDED always, THAT IF the occupier of such building be not bound by virtue of any lease or other instrument to repair, reinstate or secure the premises, THEN such occupier is hereby entitled to retain out of the rent payable in respect of such premises, all such penalties, costs, charges and expenses attendant upon or arising out of the taking down or securing, or the repairing or rebuilding the same, as in the case of any other works, the costs of which he is hereby required to pay in the first instance.

Repairs.

Certification of expenses.

Recovery from owner or occupier.

Penalty.

Fees and expenses.

Reimbursement of occupier.

43. Injury by the fall of chimnies, &c.

AND BE IT ENACTED, with regard to adjoining buildings, so far as relates to the making good any damage arising from the falling down of parts thereof, (except any such part of a party-wall as shall belong to and be used conjointly by the owners or occupiers of the buildings

buildings parted thereby), THAT IF at any time any injury or damage be caused to any part of an adjoining building, or to the internal decorations and furniture in such building, by the falling down from any other building of any chimney-shaft, chimney-pot, parapet, coping or other thing, THEN it shall be the duty of the owner of the building from which such part shall fall, and he is hereby bound and required to reimburse the expense to which the owner or occupier may be put in making good such injury or damage, in like manner as herein directed concerning the reimbursement of the expenses of ruinous party-walls; and such costs shall be recoverable in the manner hereinafter directed for the recovery of the costs and expenses of executing works in pursuance of this Act.

RUINOUS BUILDINGS.

Compensation.

EXPENSES OF WORKS.

44. Court of Mayor and Aldermen.

AND BE IT ENACTED, THAT all the powers and authorities by this Act vested in the Mayor and Aldermen of the city of London, may be lawfully exercised by the Court of Mayor and Aldermen of the said city, to be holden in the outer chamber of the Guildhall of the said city, according to the custom of the said city.

45. Repayment of expenses of works in certain cases.

AND, FOR THE PURPOSE of reimbursing any building-owner for the expense of works incurred in respect of any party-structure; BE IT ENACTED, with regard to the following works, so far as relates to the reimbursement, by the adjoining owner, of expenses incurred by the building-owner, in respect of any party-structure, built to part the buildings or premises belonging to other owners from the buildings or premises belonging to himself; that is to say,—

First, With regard to any party-wall hereafter built on the line of junction of any two buildings; and,

Second, With regard to any party-wall hereafter built on the line of junction of any building and any vacant ground, or of vacant premises, belonging to different owners or occupiers; and,

Third, With regard to a ruinous and defective party-wall pulled down and rebuilt, either with the consent of the adjoining owner, or in pursuance of the condemnation thereof, according to this Act, except a party-wall condemned on account of the injury done thereto by any building-owner, and the expenses of which and of other incidental works the Official Referees shall have awarded to be paid by such building-owner, by virtue of the provision in that behalf; and,

Fourth, With regard to one or more timber partitions between any two or more buildings pulled down, and a party-wall built in lieu thereof; and,

Fifth, With regard to a new party-wall or party-arch built in lieu of any party-wall or party-arch between intermixed properties pulled down, either with the consent of the adjoining owner, or in pursuance of the condemnation of such party-wall or party-arch; and,

EXPENSES OF WORKS.

Sixth, With regard to any party-wall built on the site of a party fence or party fence-wall, and used otherwise than as a party fence wall by the person who shall not have built the same; and,

Seventh, With regard to every other case of reimbursement, in respect of any party-structure;

Recovery of expense from adjoining owners.

THAT IF the party structure, be built in the manner, and of the materials, and of the thicknesses of such structure as required by this Act in reference thereto, THEN it shall be lawful for the building-owner at whose expense such work shall have been executed, to claim and he is hereby entitled to be paid and to recover from the owner of any adjoining building or ground, the following compensations; that is to say,—

IF a new party-wall or party-arch built on the line of junction by one owner, be made use of, either wholly or partially, by the adjoining owner, THEN a sum of money proportionate to the value of so much of such party structure so made use of; and

IF chimney-jambs, chimney-breasts and flues have been set up in any party-wall in pursuance of the instructions of the owner of any vacant ground adjoining to the same, THEN a sum equal to the value thereof; and

IF an unsound party-wall or other party structure be pulled down and rebuilt, THEN a sum of money equal to a proper proportion of the value of the new party structure, deduction being made for a due proportion of the old materials, and also a proportionate part of all expenses which shall be necessary for pulling down the old party structure, in lieu of which such new party structure shall be built; and

IF a party-wall be built in lieu of a timber partition or other party structure, and be made use of by the adjoining owner, THEN a sum of money proportionate to the value of so much of such new party-wall as shall be so made use of; and also a proportionate part of all expenses which shall be necessary for pulling down the old timber partition or other party structure; and

IF a party-wall or party-arch already built, or hereafter rebuilt, be used by an adjoining owner, THEN a sum of money proportionate to the value of so much of such party structure, as the adjoining owner shall use, deduction being made, where proper, for the value of old materials;

And, in every case, the whole of the reasonable expenses of the shoring up the adjoining building, and of removing any goods, furniture or other things therein, and of pulling down any wainscot or partition thereof;

And also, such Surveyors' fees and any other fees payable in in respect of any acts performed by the Official Referees; and also, such other costs (if any) as may have been awarded by the Official Referees as aforesaid, in any of the cases hereby provided for;

Delay of payment.

AND until such expenses shall be so paid, every person at whose expense such party structure shall have been built is hereby entitled to

and

and shall be possessed of the sole property thereof, and of the ground whereon it stands, and the same shall be vested entirely in the person at whose expense such party structure shall have been built. EXPENSES OF WORKS.

46. Recovery of Costs of Buildings.

AND BE IT ENACTED, with regard to the costs of all the works which shall be executed under this Act, incurred, either by an owner or by an occupier, on behalf of the owner of adjoining premises, or on behalf of the owner of the same premises, so far as relates to the recovery thereof, THAT, within Twenty-one Days after the completion of the work, it shall be the duty of the person by whom such expense shall have been incurred, to deliver to the adjoining owner of the building or premises in respect of which such expense shall have been incurred, an account in writing of the expenses of the work, including all preliminary and incidental operations; AND ALSO IF the work shall have been executed by the authority of the Official Referees, by virtue of the power hereby provided for supplying the want of consent of owners, THEN a copy of such account shall also be delivered to the Official Referees at their office; AND THAT every such account must contain a true account,—

Account.

First, Of the number of rods and parts of rods of brick-work, and of all digging, and of concrete, stone-work and other requisite materials, and of the labour required in executing so much of the work as the owner of the adjoining building shall be liable to pay, and of the respective prices thereof: and,

Secondly, Of any deduction which such adjoining owner shall be entitled to make therefrom on account of the old materials of so much of the wall or other structure pulled down, which shall have belonged to him:

Data of Account.

And also a true account of the expenses of all other preliminary and incidental operations; AND THAT all such works must be estimated and valued, in every such account, at such rates and prices as shall from time to time be fixed by the Official Referees; AND THAT IF within Ten Days from the delivery of such account, any party dissatisfied with the proportion of the amount thereof charged to him, appeal to the Official Referees, THEN upon the receipt thereof, or if, in cases of want of due consent as aforesaid, such account be delivered to the Official Referees as aforesaid, it shall be the duty of the Official Referees to examine such account, and to certify whether they approve or disapprove of the items thereof, and whether the rates and prices are duly charged, and whether the proportion of the account charged to the party appealing be duly charged, and also to appoint how and by whom the expenses of such examination are to be borne, and also to appoint the time or times at which the amount of such account, and of such expenses payable by any party, are to be paid; AND THAT IF they certify their disapproval, or that the charges are not duly made, or the amount fairly apportioned with regard to the party appealing, THEN before any demand be made or any proceedings be

Examination of accounts by Official Referees.

Disapproval.

EXPENSES OF WORKS.

Approval and Demand of payment.

taken thereon, the account must be amended, and again examined by the Official Referees, and certified as aforesaid; AND THAT IF the Official Referees certify their approval, THEN at the time or times appointed by the said Official Referees, it shall be lawful for the person entitled to such costs and expenses to demand the amount thereof;

Recovery of amount.

AND THAT IF, within *Ten* Days after the delivering of such account to the party liable to pay the same, such party do not either appeal against such account or pay the same; OR IF, within *Ten* Days after the demand thereof, in conformity with the certificate of the Official Referees, the amount thereof, together with the costs of the examination of the account as the Official Referees shall certify, be not paid; THEN it shall be lawful for the person entitled thereto to recover the same, or so much thereof as shall be then due, by the summary proceeding hereby provided.

47. Reimbursement of costs of works to occupiers.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to works executed under this Act, so far as relates to the reimbursement to the occupier of any costs by him paid in respect thereof, THAT, unless there besome express agreement to the contrary between the parties, it shall be lawful for such occupier and he is hereby entitled to deduct from the rents due or becoming due from him to his lessor or landlord, the amount of any such costs, charges and expenses payable by his lessor or landlord, and the costs, charges and expenses of any distress and sale made on him through the default of his lessor or landlord; AND THAT the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier.

Discharge and Repayment.

48. Recovery of expenses of buildings.

AND BE IT ENACTED, with regard to the costs and all other expenses of pulling down, securing, repairing and rebuilding party-structures, or other parts of buildings, according to the provisions of this Act, so far as relates to the recovery thereof, amongst the several owners of the premises, THAT when such costs and expenses shall have been ascertained and paid by the owner upon whom the payment thereof shall have first fallen, THEN as to any building or tenement held under any lease, or agreement for a lease, or other agreement for the occupation thereof, made before the coming into operation of this Act, it shall be lawful for such owner, and he is hereby entitled to recover the same from the persons now bound or liable by law, or by any existing contract, to maintain and repair such buildings, in respect of which such costs and expenses shall have been incurred; BUT IF any dispute or difference arise as to the persons so bound or liable, THEN every such dispute or difference shall be referred to the Official Referees;

Differences.

AND

AND THAT thereupon such Official Referees shall ascertain and determine the persons bound or liable to pay such costs and expenses, and also in what proportions such costs and expenses are to be paid by the parties liable to pay the same, and their decision shall be final; Determination by Official Referees.

AND THAT as to any building or tenement held under any lease or agreement for a lease, or other agreement for the occupation thereof, made after the coming into operation of this Act, all such costs and expenses shall be charged upon the building or tenement in respect of which such costs and expenses shall have been incurred; AND THAT in default of such costs and expenses being duly paid, it shall be lawful for the party to whom the same shall be payable, and he is hereby entitled to receive from the occupier thereof the rents and profits of such building or tenement; AND for that purpose to give notice to such occupier to pay over to him such rents and profits; AND THAT thereupon IF such occupier fail to pay such rent and profits accordingly, THEN it shall be lawful for the person to whom such costs and expenses shall be payable to recover the same by the summary proceeding hereby provided, in such proportions and at such times as shall be appointed by the award of the said Official Referees in that behalf; AND THAT after such notice shall be given, and before such costs and expenses shall be paid, it shall not be lawful for any person otherwise entitled to receive such rents and profits, and he is hereby disabled to bring any action or take any proceeding at law or in equity to recover such rents and profits; PROVIDED always, THAT IF on the hearing of the application for the warrant to levy such costs and expenses by distress according to the provision of this Act in that behalf, the owner show that he is not bound to pay, in respect of such building or tenement, any rent or profit, or that the amount of the rent or profit payable by him is not sufficient, THEN it shall not be lawful to issue such warrant, if there be no rent due or accruing; OR IF there be rent due or accruing, THEN to the extent only of the amount of such rent; AND THAT IF such costs and expenses or any part thereof remain unpaid, AND IF the same or any future owner be or become liable to pay rent in respect of such building or tenement, THEN from time to time, until the same be paid, it shall be lawful to levy the same by distress, according to the provisions in that behalf, upon the same or any such future occupier.

Charges.

Receipt of Rents.

Recovery of Rents.

Priority of right.

Limitation of distress.

Continuance of distress until payment made.

49. Official Referees to determine contributions.

AND BE IT ENACTED, with regard to such costs and expenses of works executed under this Act, so far as relates to contribution thereto by persons bound or liable to make contribution, THAT for the purpose of enabling the party upon whom the payment of such costs and expenses shall fall, either in the first instance or subsequently, to obtain contribution from others interested in like degree, it shall be lawful for every such person, whether he be freeholder, copyholder, leaseholder, mortgagee in possession, and whatever may be his interest

Proportional contributions.

BUILDINGS, USE THEREOF.

or the degree of such his interest, and whether he hold in his own right, or in right of others, and whatever may be the kinds and degrees of their respective interests, and he is hereby entitled, to a contribution from every other person having as owner an interest in the premises of whatever kind or degree; WHICH contribution is to be computed, according to the amount of his interest, in proportion to that of other persons interested, so far as such persons may be known, or can be reached by process of law or equity; THAT it shall be lawful for any party so interested, and he is hereby entitled, to require the Official Referees to settle and determine the same by their award, and their decision shall be final; AND THAT IF the person upon whom the payment of such costs and expenses shall have fallen, have paid, in respect of the interest of another or others, either unknown or who could not be reached by process of any court of law or equity, more than his own just proportion, THEN, on the production of such award, duly made, signed and sealed, it shall be lawful for such person to have and exercise against other parties against whom such award shall be made, and he is hereby entitled to the like remedies, to compel payment of money, as are hereby given for compelling the first payment of such costs and charges of such expenses.

Recovery of excess paid by any contributor.

STREETS AND ALLEYS.

50. Width thereof.

AND NOW, FOR THE PURPOSE of making provision concerning streets and other ways of the Metropolis; BE IT ENACTED, with regard to such streets and other ways, so far as relates to securing a sufficient width thereof, THAT, from the passing of this Act, all the conditions, regulations and directions contained in the Schedule (I.) to this Act annexed, shall be duly observed and performed; AND THAT IF any person offend in respect thereof, he shall be liable to all the penalties and forfeitures by this Act imposed in respect of any buildings either built contrary thereto, or without due notice to the Surveyor appointed in pursuance of this Act to inspect such buildings.

Penalties.

BUILDINGS, USE THEREOF.

51. Use and occupation of cellars or rooms unfit for dwellings.

AND now, for the purpose of discouraging and prohibiting the use of buildings unfit for dwellings, and the improper use of other buildings; BE IT ENACTED, with regard to every building of the First or Dwelling-house Class, whether already or hereafter built, so far as relates to the use and occupation thereof, or of any room or cellar thereof, THAT it shall not be lawful to let separately to hire any such room or cellar not constructed according to the rules specified in the Schedule (I.) to this Act annexed, as a dwelling, nor to occupy or suffer it to be occupied as such, nor to let, hire, occupy, or suffer to be occupied, any such room of less dimensions than One square, or built underground, for any purpose (except for a ware-room or store-room); AND FURTHER, with regard to every building of the First or Dwelling-house Class, so far as relates to the use and occupation thereof, THAT it shall not be lawful to use or to suffer any part

Noxious uses.

thereof

thereof to be used as a pig-sty, dog-kennel, or for any other noxious purpose; AND THAT IF any person wilfully let, or suffer to be occupied, or used, in manner aforesaid, any underground cellar or room, contrary to the provisions of this Act, or any other part of such building, contrary to the provisions of this Act, THEN, on conviction thereof, before two Justices of the Peace, such person shall be liable to forfeit, for every day that such cellar or room shall be so occupied, a sum not exceeding Twenty Shillings; AND the half of such penalty shall go to the person who shall sue for the same, and the other half to the poor of the parish in which such unlawfully occupied or used cellar or room shall be situate.

BUILDINGS, USE THEREOF.

Penalty.

52. AND now, for the purpose of making provision, concerning businesses dangerous in respect of fire or explosion; BE IT ENACTED, with regard to the following businesses, (that is to say): the manufacture of gunpowder or of detonating powder or of matches ignitable by friction or otherwise, or other substances liable to sudden explosion, inflammation or ignition, or capable of causing sudden explosion, inflammation or ignition, or of vitriol, or of turpentine, or of naphtha, or of varnish, or of fireworks, or painted table-covers, and any other business dangerous, on account of the liability of the materials employed therein to cause fire or explosion on matters coming in contact therewith, so far as relates to the erection of buildings in the neighbourhood of the place where any such business is carried on, and so far as relates to the carrying on of any such business in the neighbourhood of public ways or buildings, THAT it shall not be lawful hereafter to erect any building, of any class, nearer than Fifty Feet to any building which shall be in use for any such dangerous business; AND THAT it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than *Forty* Feet from any public way, or than *Fifty* Feet from any other building, or any vacant ground belonging to any other person than his landlord; AND THAT IF any such business be now carried on in any situation within such distances, THEN, from the expiration of the period of *Thirty* Years next after the passing of this Act, it shall not be lawful to continue to carry on such business in such situations; AND THAT IF any person erect any building in the neighbourhood of any such business contrary to this Act, THEN, on conviction thereof before Two Justices, he shall forfeit the sum of *Fifty* Pounds; OR if any person establish anew any such business, or carry on any such business contrary to this Act, THEN, on conviction thereof before Two Justices, such person shall be liable to forfeit for every day during which such building shall remain near to such dangerous business, or during which such business shall be so carried on, a sum, not exceeding *Fifty* Pounds, as the said Justices shall determine; AND THAT IT shall be lawful for the Justices

Buildings near dangerous businesses as to fire.

Distance from Buildings.

New businesses.

Prohibition after Thirty Years.

Fifty Pounds penalty and costs.

Costs.

Distress;

Justices also to award to the prosecutor such costs as shall be deemed reasonable; AND THAT IF the offender either fail or refuse to pay such penalty and costs immediately after such conviction, THEN they may be levied by distress of the goods and chattels of the person convicted; OR IF there be no such distress, THEN such person shall be committed to the common gaol or house of correction for any time not exceeding Six Months, at the discretion of such Justices; and that by warrant under the hands and seals of Two or more Justices of the Peace.

Or imprisonment.

53. Buildings near dangerous and noxious Trades as regards health.

AND now, for the purpose of making provision concerning businesses offensive or noxious, BE IT ENACTED, with regard to the following trades or businesses; that is to say,—

Blood-boiler,
Bone-boiler,
Fellmonger,
Slaughterer of cattle, sheep or horses,
Soap-boiler,
Tallow-melter,
Tripe-boiler,

and any other business offensive or noxious, so far as relates to the erection of buildings in the neighbourhood of any such business, and so far as relates to the carrying on of any such business in the neighbourhood of any public way, or of other buildings of the First or Dwelling-house Class, THAT it shall not be lawful hereafter to erect any buildings of the First or Dwelling-house Class nearer than *Fifty* Feet to any building which shall be in use for any such offensive or noxious business; AND THAT it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than *Forty* Feet from any public way, or than *Fifty* Feet from any other such buildings of the First or Dwelling-house Class; AND THAT IF any such business be now carried on in any situation within such distances, THEN, from the expiration of the period of Thirty Years next after the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation; AND THAT IF any person erect any building in the neighbourhood of any such business, contrary to this Act, THEN, on conviction thereof before Two Justices, he shall forfeit the sum of *Fifty* Pounds; OR IF any person establish anew any such business, or carry on any such business contrary to this Act, THEN, on conviction thereof before Two Justices, such person is hereby made liable to forfeit for every day during which such building shall remain near to such dangerous business, or during which such business shall be carried on, a sum not exceeding *Fifty* Pounds, as the said Justices shall determine; AND THAT it shall be lawful for the Justices also to award to the prosecutor such costs as shall be deemed reasonable; AND THAT IF the offender either fail or refuse to pay such penalty and costs immediately after such conviction,

Distance from buildings.

New businesses.

Prohibition after Thirty Years.

Fifty Pounds penalty and costs.

Distress;

viction, THEN they may be levied by distress of the goods and chattels of the person convicted; OR, IF there be no such distress, THEN such person shall be committed to the common gaol or house of correction for any time not exceeding Six Months, at the discretion of such Justices, and that by warrant under the hands and seals of Two or more Justices of the Peace.

Or imprisonment.

54. Use of means to mitigate noxiousness of trades.

PROVIDED always, AND BE IT ENACTED, with regard to any such offensive or noxious business, whether such trade or business be now carried on at a less distance than *Forty* Feet from any public way, or than *Fifty* Feet from any other building, or be hereafter carried on at a greater distance, yet so as to cause danger or annoyance, so far as relates to the mitigation of any penalty or punishment for unlawfully carrying on thereof, THAT IF any party charged with carrying on such business show that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, THEN it shall be lawful for such Justices to receive evidence thereof, and according to such evidence to mitigate the penalty as to them shall seem fit: PROVIDED further, with regard to such offensive or noxious business, so far as relates to the adoption of means to mitigate the injurious effects thereof, THAT IF it shall appear to such Justices that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate so far as possible the effects of such business, THEN although he hath not adopted all or the best means available for the purpose, yet it shall be lawful for such Justices assembled, and they are hereby empowered, to suspend the execution of their order or determination, upon condition that, within a reasonable time to be named, the party convicted do adopt such other or better means as to the said court shall seem fit, or before passing final sentence and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said court thought expedient for preventing the nuisance in future.

Adoption of means to mitigate after conviction.

55. Conviction and appeal as to certain trades not specified.

AND BE IT ENACTED, with regard to any business not hereinbefore enumerated by name as offensive, noxious or dangerous, or which shall not have been adjudged by any of Her Majesty's Superior Courts of Law at Westminster to be nuisances, and with regard to any building erected or continued within any such distance as aforesaid from any such business dangerous, noxious or offensive, so far as relates to a conviction in respect of any such business, and to an appeal from such conviction, THAT IF any person be dissatisfied with the decision of such Justices, AND IF, within Two Days after such decision, notice be given by or on behalf of such person of his intention to appeal, AND IF he enter into a recognizance to the party appealed against, with Two sufficient securities conditioned to try such appeal,

Recognizances.

BUILDINGS, USE THEREOF.

and to abide the order of the Court, and pay to the party appealed against, such costs (if any) as shall be awarded against him, THEN it shall be lawful for such party so dissatisfied to appeal against such conviction to the Justices of the Peace at their General Quarter Sessions of the Peace, to be holden within Four Months after such conviction, for the place in which such premises shall be situate; AND

Sessions.

THAT IF the premises be situate within the city of London, and liberties thereof, THEN the appeal must be to the Quarter Sessions thereof, OR IF the premises be situate in the counties of Middlesex, Kent or Surrey, or in the city and liberties of Westminster, or in the liberties of Her Majesty's Tower of London, then to the Quarter Sessions thereof respectively, as the case shall be; AND THAT IF,

Proceedings.

within the above-mentioned period, such appellant shall have entered into such recognizance as herein required, THEN it shall be lawful for such Justices, and they are hereby empowered, to proceed to hear and examine, on oath, into the causes and matters of such appeal, (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by the said parties as they think proper; AND the order, judgment and determination of the said Justices in their respective Sessions shall be binding and conclusive upon all parties.

56. Appeals to Quarter Sessions for Surrey and Kent.

AND BE IT ENACTED, with regard to any appeal in respect of a conviction for carrying on any such dangerous, offensive or noxious business, so far as relates to the place where such appeal is to be heard, THAT IF the appeal be to the General Quarter Sessions of the Peace for the county of Surrey or the county of Kent, THEN the jury (if any) to be impanneled, in pursuance of this Act, and all parties required to attend the Quarter Sessions for the said counties pursuant to such application, shall be impanneled and required to attend at some general or special adjournment of the said Quarter Sessions to be

To Sessions at Southwark.

held within Six Weeks next after the original Sessions; AND THAT if the matter relate to the county of Surrey, then such adjournment shall be to some convenient place in the borough of Southwark in the

To Sessions at Greenwich.

said county; AND THAT IF the matter relate to the county of Kent, then such adjournment shall be to some convenient place in the borough of Greenwich in the said county; and such times and places shall be appointed by the Justices of the said counties respectively

Further meetings.

assembled at such original Sessions; AND THAT, from time to time, every further meeting of the said Sessions, for any thing to be done upon such application, shall be appointed at or within the space

Adjournments.

of Three Weeks from the last meeting; AND THAT, from time to time, it shall be lawful for the Justices of the Peace for the said counties of Surrey and Kent respectively, and they respectively are hereby empowered and required to make such adjournment and hold such Sessions as there shall be occasion.

PROVIDED

BUILDINGS, USE THEREOF.

PROVIDED always, AND BE IT DECLARED, with regard to any business which is contrary to any existing Act of Parliament, or otherwise contrary to law, so far as relates to the operation of this Act in that behalf, THAT, notwithstanding any thing in this Act contained, this Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on, within any limits or in any manner contrary to any public, local or private Act of Parliament, or otherwise contrary to law; nor to affect, abridge or restrain the right, the duty or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on, within the limits of this Act, any offensive, noxious or dangerous business.

57. Common law and statutory remedies not affected.

58. Regulation or removal of trades deemed nuisances by purchase.

AND further, for the regulation or removal of any offensive, noxious or dangerous business now carried on; BE IT ENACTED, with regard to any such business, so far as relates to the purchase thereof, or of the premises wherein it shall be carried on, THAT IF Two-thirds in number of the inhabitant householders of any parish or place in which such business shall be carried on, present a memorial to Her Majesty in Council, praying the removal of such business from that place or neighbourhood, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the memorialists, or by means of a rate to be levied on the inhabitants of the said parish or place, or such part thereof as may be affected by such business, THEN it shall be lawful for Her Majesty to refer the matter to the Lords of the Committee of Privy Council for Trade, to consider the character of such business, whether it be offensive, noxious or dangerous; AND IF it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, THEN it shall be lawful for Her Majesty, by Order in Council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate, as to Her Majesty shall seem fit; and also to direct the Sheriff of the county or other proper person in the place or liberty in which such business is carried on, to summon a jury according to the provisions of an Act made and passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of Woods to make a new Street from Coventry-street to Longacre, and for other Improvements in the Metropolis," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner and occupier of the premises for the restriction of the use of his buildings for such purpose; AND THAT IF, within Three Months after the verdict of such jury shall be given, and judgment thereon, the inhabitants of such place or neighbourhood

Memorial to Queen in Council.

Order for removal.

Compensation.

4 Vict., c.

Unlawful to continue such trades after purchase.

DISTRICT SURVEYORS.

neighbourhood pay such compensation, THEN, within Three Months from the receipt or tender of such compensation, it shall cease to be lawful for the party carrying on such business to continue the same, and for any owner or occupier thereof either to carry on or to permit to be carried on such business in the same or any part of the same premises.

59. Funds for defraying compensation.

AND BE IT ENACTED, with regard to the funds for defraying such compensation, so far as relates to the raising thereof, THAT IF Her Majesty shall by such order direct the compensation to be paid by means of a rate, THEN it shall be lawful for the overseers of the parish or place to raise such sum as shall be necessary, as part of the poor's rate on the inhabitants of such parish or place, or such part thereof affected by the business, as shall be appointed by such order in Council, to defray such compensation, in pursuance of their memorial aforesaid; AND THAT thereupon such rate may be levied and recovered accordingly.

By a rate.

SURVEYORS, THEIR DISTRICTS AND DUTIES.

60. Appointment of Districts.

AND NOW, FOR THE PURPOSE of dividing the district to which this Act is to apply into several smaller districts, for the convenient execution therein of this Act, and for appointing competent Surveyors for superintending the same in each such district, and for regulating the duties of their office; BE IT ENACTED, with regard to such districts, so far as relates to the appointment and alteration thereof, THAT at any time after this Act shall come into operation, and from time to time, it shall be lawful for the Lord Mayor and Aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the Justices of the Peace for the county of Middlesex, the county of Surrey, the county of Kent, the city and liberties of Westminster, and the liberty of Her Majesty's Tower of London, in their General Quarter Sessions respectively, or any adjournment thereof, with reference to their respective counties, city and liberties, and they, respectively, are hereby empowered, BUT SUBJECT, nevertheless, to the consent of Her Majesty's Principal Secretary of State for the Home Department, to appoint the districts to which the respective places within their jurisdiction shall belong for the purposes of this Act, and to unite, enlarge and alter such districts for the more convenient distribution of the business.

61. Appointment of Surveyors.

AND BE IT ENACTED, with regard to the Surveyors to be assigned to such districts, for the purposes of this Act, so far as relates to their appointment, THAT at any time after this Act shall come into operation, and from time to time, it shall be lawful for the said Lord Mayor and Aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the said Justices of the Peace in their General Quarter Sessions respectively,

tively, or any adjournment thereof, with reference to their respective counties, and they are hereby required, BUT SUBJECT, nevertheless, to the consent of Her Majesty's Principal Secretary of State for the Home Department, to nominate and appoint, as Surveyors, such and so many discreet persons, of the full age of Thirty Years, and properly educated and skilled in the art and practice of building, as they the said Lord Mayor and Aldermen and the said Justices shall think fit.

62. Tenure of office.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the tenure of their office, THAT it shall be lawful for every such Surveyor and he is hereby entitled to hold such his office of Surveyor during the pleasure only of the said Lord Mayor and Aldermen and of the said Justices respectively.

63. Functions generally.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their functions generally, THAT it shall be the duty of every such Surveyor, and he is hereby required—

To see that all the rules and directions of this Act are well and truly observed in and throughout his district; and for that purpose,

To proceed from time to time in due course, upon the receipt of any notice, or if from ignorance or neglect, or from any other circumstance, notice of any work intended to be done have not been given, then, upon such work being observed by or being made known to him, to inspect the works intended to be done, or which shall have been commenced; and to cause all the rules and directions of this Act in respect thereof to be strictly observed; and also,

To attend and perform every thing required of him by this Act, whether with or without notice; and also,

To inspect ruinous buildings and projections in danger at all times when needful, and to take all necessary measures thereupon; and also,

To survey all buildings built, rebuilt, enlarged or altered by or under the superintendence of a district Surveyor within any other district to which he shall be appointed by the official referees for that purpose; and also

To cause a book for registering all notices, informations and complaints to be at all times kept at his office, and to enter in such book every notice, information or complaint which shall be delivered or made to him, and any proceeding thereon by him taken.

64. Qualifications and Disqualifications.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their qualifications and to their disqualifications, THAT at the time of his appointment, every such person appointed to be a Surveyor must be of the full age of Thirty Years; AND THAT during the time that any such person shall act as a Justice of the Peace for the county in which his district shall be situated, it shall not be lawful for him,

DISTRICT SURVEYORS.

and he is hereby disqualified to hold the office of a Surveyor or of Deputy or an Assistant Surveyor for any district under this Act.

65. Continuance of present Surveyors. 14 Geo. 3, c. 78. (1774.)

AND BE IT ENACTED, with regard to the Surveyors who, at the time of this Act coming into operation, shall have been appointed under the Act of the fourteenth year of the reign of King GEORGE the Third, mentioned in the Schedule (A.), hereto annexed, so far as relates to their continuance in office, and the application of this Act to them, THAT it shall be lawful for them, and they are hereby entitled, to continue to be the Surveyors for the purposes of this Act, and for the districts assigned to them at the time this Act shall come into operation, until they shall be removed; and to act in all respects as if they had been appointed under this Act; AND THAT every provision in this Act applicable to district Surveyors, so far as relates to the exercise of the office of Surveyor, and to their remuneration in that behalf, shall apply to them.

66. Declaration of official fidelity.

AND BE IT ENACTED, with regard to every Surveyor hereafter appointed, so far as relates to making a declaration of official fidelity, THAT, before any such Surveyor shall act in pursuance of this Act, it shall be his duty, and he is hereby required, to make a declaration of official fidelity, which must be administered by the said Lord Mayor and Aldermen in their Court of Aldermen, or by the said Justices of the Peace in their respective General Quarter Sessions, and must be in the form or to the effect following; that is to say,—

"I, A. B., being one of the Surveyors appointed in pursuance of an Act made and passed in the year of the reign of Her present Majesty, intituled, "An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood, and commonly called the Metropolitan Buildings Act," do solemnly declare, That I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my power, skill and ability, endeavour to cause the several provisions of the said Act to be strictly observed, and that without favour or affection, prejudice or malice to any person whomsoever."

67. Regulation of duties.

AND BE IT ENACTED, with regard to the Surveyors, so far as relates to the regulation of their official duties, THAT it shall be the duty of every Surveyor for the city of London and the liberties thereof,

Offices.

and he is hereby required, to have an office, at his own expense, in such public situation as shall be approved by the Lord Mayor and Aldermen; AND THAT it shall be the duty of every other Surveyor, and he is hereby required, to have an office, at his own expense, in some central part of the district to which he shall be appointed, as shall be approved by the Justices of the Peace in Quarter Sessions, within

DISTRICT SURVEYORS.

within whose jurisdiction he shall act; AND THAT it shall be the duty of every such Surveyor, or some other person in his behalf, and he is hereby required to attend at his office every day (Sundays, Christmas-day and Good Friday excepted) from Ten of the clock in the morning till Four of the clock in the afternoon; AND THAT immediately upon his appointment, and from time to time, upon every change of his residence, or of his place of business, or oftener if required, it shall be the duty of every Surveyor, and he is hereby required, to make a return to the Registrar of Metropolitan Buildings, and to the overseers of the poor of every parish or place within his district, of his name and place of abode and the place where such office shall be.

Attendance.

Return of name and residence.

68.

AND BE IT ENACTED, with regard to such Surveyor, so far as relates to the appointment of a deputy or substitute in certain cases, THAT IF any Surveyor shall be prevented by illness, or any other unavoidable circumstances, from attending to the duties of his office, THEN forthwith it shall be his duty and he is hereby required, BUT SUBJECT to the previous consent and approval of the Official Referees, to appoint some other Surveyor as his deputy to perform all such his duties for so long a time as he shall be so prevented from executing them; AND THAT thereupon, during such time as aforesaid, it shall be the duty of such deputy Surveyor and he is hereby required to perform all the duties of such Surveyor, and that in all respects as if he were the Surveyor appointed or confirmed under this Act; AND THAT it shall be lawful for such deputy Surveyor and he is hereby entitled to receive the fees payable in respect of the services so performed by him in such district.

Surveyor pro tempore.

Duty of deputy.

Fees.

69.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the filling up of vacancies, THAT IF any vacancy shall happen through the death of any Surveyor, THEN, within One Month thereafter, it shall be the duty of the Lord Mayor and Aldermen or the Justices of the Peace, and they are hereby respectively required, to appoint a successor as herein directed; AND THAT, in the meantime, it shall be lawful for the Official Referees to direct the Surveyor of any one or more of the other districts to perform the duties of Surveyor for the vacant district; or if no district Surveyor can be spared from his own district, to appoint some other competent person for that purpose; AND THAT every such Surveyor is hereby entitled to receive the fees payable in respect of the services so performed by him in such vacant district.

Vacancies.

Occasional services.

Fees therefor.

70.

AND BE IT ENACTED, with regard to the Surveyors, so far as relates to the regulation of their business, THAT IF it shall appear to the Official Referees that the district appointed for any Surveyor is too

Regulation of business.

DISTRICT SURVEYORS.

extensive for the prompt discharge of his functions, THEN it shall be their duty to represent such their opinion to the Lord Mayor and Aldermen of the city of London, or to the Justices of the Peace with whom the appointment of a Surveyor for that district may rest; and for that purpose to transmit with their letter of representation a transcript of their "Register of Notices," with the results; AND THAT IF at any time it appear to such Official Referees, that on account of the pressure of business in any district, or on any other account, the Surveyor of that district cannot discharge his duties promptly, as regards the builders and others engaged in building operations, and efficiently as regards the purposes of this Act, THEN it shall be lawful for such Official Referees, and they are hereby empowered, to appoint any other district Surveyor to assist the Surveyor of such district in the performance of his duties; OR IF no district Surveyor can be spared from his own district, then to appoint some other competent person to give such assistance; AND THAT with regard to all buildings surveyed by such Assistant Surveyor, and all other acts done by him, it shall be the duty of such Assistant Surveyor to make returns, and to act in all respects as if he had been appointed by the said Lord Mayor and Aldermen, or by the said Justices, to be the Surveyor of such district; AND THAT every such person shall be entitled to receive the fees payable in respect of the services so performed by him.

Assistant Surveyors.

Duties of Assistants.

Fees.

71. Superintendence of Surveyors.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the supervision of buildings, built, rebuilt, enlarged or altered by or under his professional superintendence, THAT it shall not be lawful for any such Surveyor to survey any such building for the purposes of this Act; BUT THAT such building must be surveyed by another district Surveyor, or by another Surveyor to be appointed by the Official Referees for that purpose.

72. Surveyor's Fees.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their remuneration, THAT UPON the expiration of One Month after the roof of any building erected and surveyed under this Act, shall have been covered in, and all the walls thereof have been built to their full heights, and the principal timbers and floors shall have been fixed in their places, and UPON the expiration of *Fourteen* Days after the completion of any addition, alteration and repair, and UPON the expiration of *Fourteen* Days after each special service shall have been performed, and UPON delivering to the owner of the building an account of the fees incurred, and UPON tendering a receipt, signed with his christian and surname, and stating the amount of such account and the work done, it shall be lawful for the Surveyor, and he is hereby entitled to receive for his time and trouble and expenses in causing the rules, regulations and directions of this Act to be observed, the several fees specified in the Schedule of Fees (L.), hereunto

unto annexed; AND THAT IF, on tender of such receipt, any owner or occupier who shall become liable to pay any such fee shall refuse to pay the same, THEN, upon application to any Justice of the Peace, it shall be lawful for such Justice, and he is hereby required to issue his warrant to levy the amount of such fee by distress and sale of the goods and chattels of the party so refusing, in like manner as poor's rates are by law recoverable; PROVIDED always, THAT IF the work in respect of which such fee shall become payable have not been done in every respect agreeably to the directions of this Act, THEN it shall not be lawful for any Surveyor to receive such fee; AND THAT IF he shall so receive it, THEN, upon application to the Official Referees by any party interested in the building in respect of which such work shall have been executed, and upon its appearing that such fee has been received wrongfully, it shall be the duty of such Official Referees, and they are hereby required to order the said Surveyor to refund such fees.

DISTRICT SURVEYORS.

Refusal of payment.

Fees to be paid only for work done agreeably to Act.

Refunding fees.

73. AND BE IT ENACTED, with regard to such Surveyors, so far as relates to a return of the business done by them, and to the inspection thereof, THAT, within Seven Days after the first day of every month, it shall be the duty of every Surveyor, and he is hereby required to make a return to the Registrar of Metropolitan Buildings, enumerating therein the number and nature of all the several works executed within the previous month under his supervision, and the fees paid to him for the same, and also a copy of the list or register of notices served upon him, with the results thereof, and to keep in his office a copy of such return; AND THAT IF any person shall apply to inspect the same, THEN on the payment of One Shilling, it shall be open for inspection, at all reasonable times; AND with regard to such return, so far as relates to the authentication and effect thereof, THAT every such return must be signed by such Surveyor, and if so signed, it shall be deemed to be a certificate that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him; BUT no such return shall be any protection from, or hindrance to, any future proceedings in respect of works not executed according to the provisions of this Act, though the same may have been done before the making of such return.

Surveyor's Returns.

Inspection of returns.

Authentication and effect of returns.

74. AND BE IT ENACTED, with regard to every Surveyor, so far as relates to the discharge of his duties, THAT IF any Surveyor receive any higher fee than he shall be entitled to under this Act, OR IF in his capacity of Surveyor he receive a fee for any act or omission in respect of which he is not entitled to receive any remuneration, OR IF he refuse to refund any fee wrongfully received by him, in respect whereof the Official Referees shall have made an order to that

Penalty for extortion, negligence or unfaithfulness.

OFFICIAL REFEREES.

effect, OR IF at any time he wilfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, AND IF, upon complaint thereof, such conduct be made to appear to the Lord Mayor and Aldermen of the said city of London, or the Court of Quarter Sessions having jurisdiction over the district for which he shall act for the time being, THEN it shall be lawful for the said Lord Mayor and Aldermen, or the said Court of Quarter Sessions, as the case may be, and they are hereby respectively required, EITHER to fine every such Surveyor in such sum of money not exceeding Fifty Pounds as they shall think fit, OR to discharge him forthwith from his said office; AND THAT IF for any such cause such Surveyor be discharged, he shall be incapable of being again appointed a Surveyor for the purposes of this Act.

Incapacitation of Surveyors.

75.
OFFICIAL REFEREES.

Appointment of two Official Referees.

AND NOW, FOR THE PURPOSE of providing for the appointment of competent Official Referees to superintend the execution of this Act throughout all the districts to which it is applicable, and also to determine sundry matters in question incident thereto, as well as to exercise, in certain cases, a discretion in the relaxation of the fixed rules and directions of this Act, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business; BE IT ENACTED, with regard to the Official Referees, so far as relates to their appointment, to their qualifications and to the tenure of their office, THAT it shall be lawful for Her Majesty's Principal Secretary of State acting for the Home Department, and he is hereby empowered to appoint Two Persons, being architects, to be Official Referees of Metropolitan Buildings, and from time to time, as he shall think proper, to remove such Official Referees, and in their place to appoint other persons so qualified.

Tenure of Office.

76.
Their Functions generally.

AND BE IT ENACTED, with regard to such Official Referees, so far as relates to their functions generally, THAT it shall be the duty of such Official Referees and they are hereby required to superintend the execution of this Act, by the several district Surveyors already existing, or hereby authorized to be appointed, and to perform the several matters to them respectively assigned by the provisions of this Act, and to determine all questions referred to them, whether expressly by this Act, or at the instance of any one or more of the parties concerned.

77.
Matters of reference.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to their jurisdiction, THAT IF any doubt, difference or dissatisfaction, in respect of any matter within the limits of this Act, arise between any parties concerned, or between any party and any surveyor, or between any two surveyors, as to any act done or to be

be done in pursuance of this Act; or as to the effect of the provisions thereof in any case; or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect; and particularly as to whether the requirements implied in terms of qualification, applied to sites, to soils, to materials or to workmanship or otherwise, and denoting good, sound, fit, proper or sufficient, are fulfilled in certain cases; or as to the district in which any building, matter or thing is to be deemed to be situate, especially in cases where such building, matter or thing is partly in one district and partly in another; or as to the expenses to be borne by the respective owners of premises parted by the same party-walls, or the proportions thereof; or as to the proportions of the expense to be borne by the occupier, or by the owners of premises, in respect of any work executed, or any other matter whatever; THEN it shall be lawful for any party concerned, and he is hereby entitled, to require the Official Referees to determine such matter, BUT so that such requisition be made in writing, and that it set forth, either generally or otherwise, the matters in respect of which the determination of the Official Referees is required; AND THAT the determination of such Referees, or of One of such Referees, with the assent of the Registrar of Metropolitan Buildings, as to all or any of the points in difference on which such Referees shall make their award, and as to the costs, charges and expenses of such reference, shall be binding on all parties to such reference.

One Referee may act.

78. Award and powers of Referees.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to their authority in respect of any reference to them, and to the effect of their award upon the rights and interests of the owners and occupiers of property, THAT it shall be lawful for such Referees and they are hereby empowered to exercise all such powers as arbitrators as they would have had in case they had been appointed under an order of Her Majesty's Court of Queen's Bench at Westminster; AND THAT if such award be given in writing, and be sealed by the official seal of the Registrar of Metropolitan Buildings, it shall be as effectual as if made under an order of reference by such Court, and shall be enforced by the said Court in all respects as if made under an order of such Court; AND THAT it shall be binding and conclusive against every person, body politic and corporate, including The Queen's Majesty, Her heirs and successors, claiming any estate, right, title, trust, use or interest in, to or out of the said premises or any part thereof, either in possession, reversion, remainder or expectancy, and against every other person whomsoever.

Legal effect of awards.

Effect as to persons.

79. Effect of awards as evidence.

AND BE IT ENACTED, with regard to such award, so far as relates to the effect thereof as evidence of the matter thereof, THAT IF on the trial or hearing of any cause or matter in any court of law or equity or elsewhere, any copy of an award, signed and sealed with the

OFFICIAL REFEREES.

seal of the said Registrar, be produced, THEN it shall be the duty of all Judges, Justices and others, and they are hereby required to receive the same as primâ facie evidence of the matters therein contained.

80. Declaration of official fidelity.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to the declaration of official fidelity, THAT before any Official Referee shall act in pursuance of his appointment, it shall be his duty and he is hereby required to take the following Declaration, to be administered by the Chief Baron or any other of the Barons of Her Majesty's Court of Exchequer; that is to say,—

"I, A. B., do solemnly declare, That I will diligently, faithfully and impartially execute the duties of an Official Referee in relation to matters arising under the provisions of the Act made and passed in the year of the reign of Her present Majesty, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood, and commonly called 'The Metropolitan Buildings Act.'"

81. Regulation of business of the Official Referees.

AND BE IT ENACTED, with regard to such Official Referees, so far as relates to the regulation of the business of their office, THAT when any matter is by this Act required, directed or permitted to be done by the Official Referees, the same may be done by any One of them, with the assent of the Registrar of Metropolitan Buildings, unless express provision to the contrary be made, and if done by any One of them with such assent, it shall be as valid and effectual as if done by all of them; AND THAT, subject to such restrictions and regulations as may be made in that behalf by the Commissioners of Works and Buildings it shall be lawful for the Official Referees to appoint any one of their number, under their hands and the seal of the Registrar of Metropolitan Buildings, to make any inquiry or any survey which shall appear to them either necessary or expedient in order to enable them to determine any matters in reference.

Official Referees may delegate powers, and revoke them.

REGISTRAR OF METROPOLITAN BUILDINGS.

82. Appointment of Register.

AND, for the purpose of duly recording relaxations of the requisitions of this Act, made in pursuance of the provisions hereof in that behalf, and of providing for the revision from time to time both of such relaxations and requisitions, and of providing against the partial exercise of the powers of this Act, and for the more effectually providing for the due recording of the acts of the Official Referees, and for exercising a due control thereon; BE IT ENACTED, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby authorized and required to appoint a Registrar of Metropolitan Buildings; AND THAT such Registrar shall hold his office during the pleasure of the said Commissioners; AND

Tenure of office.

AND THAT, subject to the provisions of this Act, it shall be lawful for the said Commissioners to make rules for regulating the execution of the duties of the office of the said Registrar; AND THAT it shall be the duty of such Registrar to keep a seal, and to affix such seal to all documents made by the said Official Referees, and required to be sealed; and to keep all the documents and records relating to the business of their office, and to register the same: PROVIDED always, with regard to such Registrar, so far as relates to the affixing the seal of office to any document, THAT IF it shall appear to the said Registrar that any such documents are contrary to law, or not complete in any of the requisite forms, or beyond the competence of the said Official Referees, either with regard to the provisions of this Act or any rules or regulations prescribed for their guidance, by the said Commissioners of Works and Buildings, THEN it shall be the duty of the said Registrar to refuse to affix the seal; AND THAT thereafter, if the said Official Referees shall so require, it shall be his duty and he is hereby required to report the matter and the particular grounds and reasons for his refusal to the said Commissioners; AND THAT upon the receipt of such report it shall be lawful for the said Commissioners to authorize the said Registrar to affix the seal or to confirm his refusal: PROVIDED always, with regard to such office of Registrar, so far as relates to the execution of his duties in certain events, THAT IF such Registrar be ill or otherwise unable to discharge the duties of his said office, OR IF he be absent, THEN it shall be lawful for the said Commissioners of Works and Buildings to appoint some other person to act in his behalf, and to assign to such person such part of the remuneration of the said Registrar, or otherwise to remunerate him as the Lords of the Treasury shall appoint in that behalf.

Rules of Office.

Seal of Office.

Use of Seal of Office.

Report of objections by Registrar.

Authority of Commissioners of Woods.

Interim Registrar.

83. Declaration of official fidelity.

AND BE IT ENACTED, with regard to the Registrar, so far as relates to the declaration of official fidelity, THAT before any Registrar shall act in pursuance of his appointment, it shall be his duty and he is hereby required to take the following Declaration, to be administered by the Chief Baron, or any other of the Barons of Her Majesty's Court of Exchequer; that is to say,—

"I, A. B., do solemnly declare, That I will diligently, faithfully and impartially execute the duties of Registrar in relation to matters arising under the provisions of an Act made and passed in the year of the reign of Her present Majesty, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood,' and commonly called 'The Metropolitan Buildings Act.'"

84. Custody and inspection of Records of Official Referees.

AND BE IT ENACTED, with regard to such awards, certificate and other records of the said Official Referees, so far as relates to the custody

custody and the inspection thereof, THAT all such awards, certificate and other documents relating to the business of their office shall be kept in the office of the Registrar of Metropolitan Buildings;

Copies of awards.

AND THAT IF, for the purpose of evidence or otherwise, any party require a copy of such award, THEN, on payment of the expense thereof, and of such fees as may be appointed in that behalf, it shall be lawful for such party, and he is hereby entitled to demand from the Registrar an inspection thereof, or a copy thereof or extract therefrom;

Authentication of copy, and fees therefor.

AND THAT, on such payment and demand, it shall be the duty of such Registrar, and he is hereby required to give, under his hand and seal of office, a copy of any such award, or any other document, to the person so demanding the same.

85. Office of Registrar, and regulation of business.

AND BE IT ENACTED, with regard to the Registrar of Metropolitan Buildings, so far as relates to his office or place of business, and to the regulation of the business thereof, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby required to appoint, in some central and convenient situation within the city of London or the city of Westminster, an office for carrying on the business of the Registrar of Metropolitan Buildings, and registering all documents relating to such business; and in such office—

To keep a Register of all matters referred to the Official Referees, and otherwise of all matters which shall come under their cognizance in pursuance of this Act; and also,

To keep and preserve all documents connected with the duties of Official Referees; and also,

To receive all notices requiring any act to be done by them, and to file and number them in the order in which they are received;

86. Registration of awards, &c.

AND BE IT ENACTED, with regard to all the awards and certificates, and all documents relating to the business of the Official Referees, so far as relates to the registration thereof, THAT the same shall be registered not only chronologically in the order in which they are received, but according to the subject-matters thereof, and also according to the order of and in relation to the provisions of this Act.

87. Remuneration of Official Referees and Registrar.

AND BE IT ENACTED, with regard to such Official Referees and Registrar, so far as relates to their remuneration, THAT it shall be lawful for Her Majesty to grant to each of such Official Referees and the said Registrar a salary not exceeding *One thousand* Pounds by the year, in Four equal quarterly payments;

Quarterly payments.

AND THAT IF any such Official Referee or such Registrar shall be appointed, or shall die, resign or be removed from office, in the interval between two quarterly days of payment, THEN he shall be entitled to a proportionate part of the salary for the period of such interval during which he shall hold such appointment.

AND

OFFICIAL REFEREES. REGISTRAR.

88. Funds for defraying expenses of the Official Referees and Registrar.

AND FORASMUCH as the services of such Official Referees and of such Registrar, will be employed chiefly on behalf of the localities comprised within the limits of this Act, it is expedient to provide for the payment of a portion of their salaries by means of a county rate, or by a rate in the nature of a county rate on such localities, in proportion to the assessed value of inhabited houses and buildings therein, or as near thereto as may be; Now, for that purpose, BE IT ENACTED, with regard to such Official Referees and Registrar, so far as relates to the payment of a portion of their salaries out of local funds, THAT it shall be lawful for the Lord Mayor and Aldermen of the city of London, and they are hereby required, to direct the Chamberlain of the said city, and for the Justices of the Peace for the several counties of Middlesex, Surrey and Kent, and they are hereby respectively required to direct the treasurer of such respective counties to pay half-yearly to or into the hands of the Cashier of the Commissioners of Works and Buildings, on account of the said Official Referees and of the said Registrar, the several sums of money hereafter mentioned, as and by way of contribution to such salaries; that is to say,—

The city of London, and the Liberties and the Suburbs thereof - - }	the sum of £. 100
The county of Middlesex - - - -	1,000
The county of Surrey - - - - -	320
The county of Kent - - - - -	80
	£. 1,500

AND to cause the same to be levied by a rate upon the several parishes and places within the limits of this Act, in such amounts as to such Justices may seem proper, having regard to the assessed value of the inhabited houses and the buildings in such places respectively, in addition to the county rate in respect thereof; AND THAT for the purpose of levying such sums, they shall be deemed to be part of the county rate, and leviable by all the ways and means by which a county rate is leviable, and subject in all respects to the legal incidents of a county rate.

Nature of Levy.

89. Payments of Official Referees and Registrar out of the Consolidated Fund.

AND BE IT ENACTED further, with regard to the Official Referees and Registrar, so far as relates to the payment of the balance of their salaries, THAT such balance shall be payable and paid out of the Consolidated Fund of the United Kingdom.

LEGAL PROCEEDINGS.

90. Fees of Office, and Application thereof.

AND BE IT ENACTED, with regard to the fees payable to the Registrar, so far as relates to the appointment thereof, and to the application thereof, THAT from time to time it shall be lawful for the Commissioners of the Treasury to appoint such fees to be paid in respect

LEGAL PROCEEDINGS.

respect of the services to be performed by the said Official Referees or by the said Registrar, as shall be deemed requisite to defray the expenses of the said office or incident to such services, and the salaries or other remuneration of any persons employed under the Registrar in the execution of this Act, with the sanction of the Commissioners of the Treasury, and which are not otherwise provided for by this Act; AND THAT the balance, if any, shall be carried to the Consolidated Fund of the United Kingdom, and be paid accordingly into the receipt of Her Majesty's Exchequer at Westminster; AND THAT it shall be lawful for the Commissioners of the Treasury to regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for.

Balance to Consolidated Fund.

Regulations as to receipt, custody and accounts.

91. Informalities in distress.

AND NOW, FOR THE PURPOSE of regulating sundry legal proceedings, BE IT ENACTED, with regard to any distress for any sum of money to be recovered by virtue of this Act, so far as relates to the remedying of any damage occasioned by any irregularity therein or in reference thereto, THAT notwithstanding there be any defect of form in the proceedings relative to any such distress, neither the distress itself shall be deemed unlawful, nor shall the party making the same be deemed a trespasser ab initio; BUT THAT IF any irregularity be committed by any party, THEN, subject to the conditions in this Act prescribed with regard to actions brought for any thing done in pursuance thereof, it shall be lawful for the person aggrieved by such irregularity and he is hereby entitled to recover full satisfaction for the special damage only; AND THAT by action on the case, and not by any other action whatsoever.

Action for damages.

92. Tender of amends.

AND BE IT ENACTED, with regard to any action for any irregularity or other proceeding, so far as relates to the tender of amends or payment of money into court in respect thereof, THAT IF, before such action be brought, the party who committed or caused to be committed any such irregularity or wrongful proceeding, make or cause to be made tender of sufficient amends, THEN the plaintiff shall not be entitled to recover in such action; AND THAT although such tender shall not have been made, yet IF at any time before issue joined the court in which such action shall be depending, or a Judge of any of the superior courts grant leave, THEN it shall be lawful for the defendant to pay into the court any sum of money, by way of compensation or amends, in such manner and under such regulations, as to the payment of costs and the form of pleading, as is and are customary and in force in the said superior courts.

Payment of Compensation into Court.

93. Recovery of money under awards.

AND BE IT ENACTED, with regard to every sum of money by this Act, or by any award or certificate or other proceeding in pursuance

pursuance of this Act, charged upon any person in respect of any work done in pursuance or in accordance with this Act, so far as relates to the recovery of such sum of money, THAT it shall be lawful for the party claiming the same to proceed in a summary way before any Two Justices of the Peace, OR IF the matter arise within the district of the Metropolitan Police, THEN before any Police Magistrate having jurisdiction within that district; AND THAT, on proof of such sum of money being still due, it shall be lawful for such Justices or such Police Magistrate, and they respectively are hereby required to issue a warrant to levy the amount thereof, and also the costs of the proceeding to be levied by distress of the goods and chattels of the person in default; AND IF such person have no goods and chattels whereon to distrain, OR IF such goods and chattels be insufficient for that purpose, THEN it shall be lawful for such Justices or Police Magistrate, or for any other Justice or Police Magistrate, to commit the person in default until the amount of such sum so due, and of such costs, shall have been fully paid.

LEGAL PROCEEDINGS.

Distress.

Imprisonment.

94. Procecution of offences.

AND BE IT ENACTED, with regard to all offences against the provisions of this Act for which no other proceeding is provided, so far as relates to the prosecution thereof, THAT it shall be lawful to proceed by complaint before any One Justice of the Peace; AND THAT it shall be lawful for such Justice to summon the party against whom such complaint shall be made; AND THAT on conviction of the offender before Two Justices, or before any police magistrate, it shall be the duty of such Justices or magistrate, and they are hereby required, to cause the amount of the penalty hereby imposed in respect of such offence, and of the costs of any such proceeding in respect of such offence, to be levied by distress of the goods and chattels of the offender; OR IF he have no goods and chattels whereon to distrain, OR IF they be insufficient for that purpose, THEN it shall be lawful for such Justices or magistrate, or for any other Justice or magistrate, and they are hereby empowered, either on failure of such distress or in the first instance, to commit the offender till he shall have paid the full amount of such penalty and such costs.

Complaint.

Summons.

Distress.

Imprisonment.

95. Removal of orders, &c. into superior Courts; Certiorari.

AND BE IT ENACTED, with regard to every order which shall be made by virtue of or under this Act, and to any other proceeding to be had touching the conviction of any offender against this Act (except proceedings touching the conviction of any offender for carrying on a trade or business offensive, noxious or dangerous contrary to this Act, otherwise than those hereinbefore specified), THAT it shall not be lawful for any person to remove such order or other proceeding by certiorari, or any other writ or process whatsoever, into any of Her

LEGAL PROCEEDINGS.

Majesty's Courts of Record at Westminster; and every such order and other proceeding is hereby declared not to be so removable.

96. Limitation of actions for penalties.

AND BE IT ENACTED, with regard to every penalty or forfeiture incurred under this Act, so far as relates to the limitation of proceedings for the recovery thereof, THAT IF, within Six calendar Months next after such penalty or forfeiture shall have been incurred, an action or prosecution be not brought or commenced against the person liable in respect thereof, THEN thereafter it shall not be lawful for any person to bring such action or commence such proceeding in respect of such penalty or forfeiture.

97. Recovery of penalties.

AND BE IT ENACTED, with regard to every such penalty or forfeiture, so far as relates to the recovery and the appropriation thereof, THAT it shall be lawful for any party to sue or proceed for the same; AND THAT if such penalty be not otherwise specifically

Appropriation.

appropriated, THEN the person so suing or proceeding shall be entitled to receive the amount thereof for his own benefit.

98. Regulation of actions against persons acting under this Act.

AND, for regulating proceedings against persons acting in pursuance of this Act; BE IT ENACTED, with regard to any action or suit against any person in respect of any act or thing done or intended to be done in pursuance of this Act, so far as relates to the limitation thereof, and to the notification thereof to the offending party, and to the venue thereof, and to the pleadings therein, and to the evidence of the matters thereof, and to the verdict therein, and to the judgment of the court thereon, and to the costs of such action, and to the recovery of such

Limitation of action.

costs, THAT, after the expiration of Six Months next after the fact committed, it shall not be lawful to bring any such action or suit against

Notice of action.

any person in respect of any such act; AND THAT if Twenty-one Days at the least before the commencement of the action or suit, notice in writing of an intention to bring such action or suit be not given to every person against whom such action or suit shall be brought, THEN it shall not be lawful for any person to bring any such

Venue in London.

action or suit against any person in respect of any such Act; AND THAT IF the cause or matter of any such action or suit arise within the said city of London or the liberties thereof, THEN such action or suit must be laid in the city of London, and not elsewhere; AND

Venue in Middlesex.

THAT IF the cause of any action or suit arise in any part of the limits aforesaid, out of the said city of London and liberties thereof, THEN it must be laid and tried in the county of Middlesex, and not elsewhere; AND THAT in every such action or suit it shall be lawful

Plea and evidence.

for the defendant, and he is hereby entitled, to plead the general issue; and at the trial to be had thereof, to give this Act and the special matter in evidence, and to prove that the matter or thing for which such

such action or suit is brought was done in pursuance and by the authority of this Act; AND THAT IF, upon the trial of such action, it appear that the said matter or thing has been so done in pursuance of this Act, OR IF it appear that such action or suit was brought before the expiration of Twenty-one Days after such notice given as aforesaid, OR IF it appear that sufficient satisfaction was made or tendered before such action was brought, OR IF upon plea of payment of money into court, it shall appear that the plaintiff has not sustained damages to a greater amount than the sum paid into court, OR IF any such action or suit be not commenced within the time herein for that purpose limited, OR IF it be laid in any other county or place than as aforesaid, THEN and in every such case it shall be the duty of the jury, and they are hereby required to find for the defendant; AND THAT IF a verdict be found for the defendant, OR IF the plaintiff in any such action or suit become nonsuited, or discontinue or suffer a discontinuance of any such action or suit, OR IF judgment be given for the defendant therein, on demurrer or by default or otherwise, THEN the defendant shall be entitled to have judgment to recover full costs of suit, and to such remedy for recovering the same as any defendant shall have by law.

LEGAL PROCEEDINGS.

Verdict.

Costs.

99. Costs of actions.

AND further, for the prevention of vexatious litigation, BE IT ENACTED, with regard to every action in respect of any matter or thing done or intended to be done in pursuance of this Act, so far as relates to the costs of such action, THAT IF the defendant apply to the superior court at Westminster in which such action is pending, or to any Judge of any of the said courts, THEN it shall be lawful for such court or any such Judge to require the plaintiff to give such security as such court or Judge shall think fit, for the payment of all costs, charges and expenses incurred or to be incurred in and about the said action, and which shall be or become payable by him on the taxation thereof by the proper officer.

100. Prosecutions for preventing neglect or evasion of this Act.

AND BE IT ENACTED, with regard to any penalty or forfeiture incurred by any default in complying with the provisions of this Act, so far as relates to proceedings for the recovery thereof, THAT, at any time within Three Months after such penalty or forfeiture shall have been incurred, it shall be lawful for any surveyor appointed or confirmed by virtue of this Act, and all other persons, and they are hereby entitled to commence and prosecute proceedings for the recovery thereof, or for the recovery of the expenses of pulling down or altering of any building against any owner, occupier, builder, workmen or other person, or for any default made in complying with the provisions of this Act; PROVIDED always, THAT IF such proceedings be taken by any person, except one of the Surveyors, or except the

Notice of action.

MISCELLANEOUS.

Official Referees, THEN notice of the intention to commence such proceedings must be given at the office of the Surveyor of the district, and at the office of the Registrar of Metropolitan Buildings.

101. Notifications.

AND BE IT ENACTED, with regard to notices by this Act required, so far as relates to the service thereof upon the owner or occupier of any building or ground, THAT every such notice must be given as follows; that is to say—

Married female.

If such owner be a married female, other than a cestuique trust in regard to such property, THEN such notice must be given to the husband of such married female; or

Infant, Idiot or Lunatic.

If such owner be an infant, idiot or lunatic or cestuique trust, THEN such notice must be given to the guardian, trustee or committee of such infant, idiot or lunatic or cestuique trust; or

Owner unknown.

If such owner, husband, trustee, guardian or committee is not known or cannot be found, THEN such notice must be given to the occupier of such building, fence or ground to which it shall relate; or

Building unoccupied.

If such building or ground be unoccupied, THEN such notice must be affixed to some conspicuous part of such building, fence or ground, at a height of not more than Nine Feet from the ground:

Immediate landlord.

AND IF the person in the occupation of any building or premises, ground or tenement, in respect of which notice is to be given, allege that he is not the owner thereof, THEN such notice must be given to the immediate landlord of such occupier, and it shall be the duty of such occupier, and he is hereby required to inform any person by whom such notice shall be required to be given, or any other person applying on his behalf, of the name, place of residence, or place of business of such owner or landlord, or of his agent or other person by whom the rent of such building, premises, ground or tenement shall

Part ownership.

be received; AND IF such owner or landlord be not in receipt of the whole of the rents or profits of such building, premises, ground or tenement; AND IF any notice shall be served upon such owner or landlord, THEN, immediately upon the receipt thereof, it shall be his duty and he is hereby required to transmit to his immediate landlord or his agent, and also to any other person having an interest in such building or premises, ground or tenement, or in receipt of the rents or profits thereof under the same immediate landlord, or to the agent of such

Service of Notices.

person, a copy of such notice: PROVIDED ALWAYS, with regard to every such notice, so far as relates to the service thereof upon any such owner, THAT IF it be served upon the immediate landlord of the occupier or upon his agent, by or on behalf of the person by whom it is hereby required to be served in the first instance, THEN, although it may not be served by such immediate landlord upon any other landlord or owner, such service is to be deemed to be sufficient service;

Damage arising from

BUT NEVERTHELESS, if any owner suffer damage by the failure of any other

other person, being either the occupier or any person holding under such owner, to serve such notice, THEN such owner shall be entitled to recover the amount thereof against such person by whom such damage shall have been occasioned; AND THAT every notice served under this Clause, on any person, must contain a copy of the provisions, so far as they require him to transmit the same to his immediate landlord, or the agent of such landlord.

defective service.

102. Mode of service upon occupier.

AND BE IT ENACTED, with regard to notices by this Act required, so far as relates to the mode of service thereof upon the occupier of any building or ground, THAT IF such notice be intended for the occupier of any building or ground, THEN it must be given either personally or by leaving the same with some inmate at the premises, or it must be affixed as aforesaid.

103. Mode of service upon owners, by delivery.

AND BE IT ENACTED further, with regard to all such notices, so far as relates to the mode of service thereof upon owners by delivery, THAT every such notice (except such notice as may, according to the provision in that behalf, be sent by post), must be given either personally or by leaving the same with some inmate at the usual place of abode of such party, or if that be not known, then at his last known place of abode; AND THAT every such notice, when so given to such persons respectively as aforesaid, or left at the last known place of their respective abodes, or when so affixed as aforesaid, according to the cases hereinbefore mentioned, is hereby declared to have the same effects and consequences as if given to the actual owner.

Effect of notice.

104. Mode of service upon owners, by transmission.

AND BE IT ENACTED further, with regard to Notices, so far as relates to the mode of service thereof by transmission, THAT IF any owner, upon whom the same is required to be served, be not within the limits of this Act, or have not, within the limits of this Act, any agent acting in his behalf in the matter of the premises to which the notice refers, THEN it shall be lawful to give notice by post-letter, duly registered according to the practice for the time being, adopted with regard to letters transmitted by post; BUT so that, nevertheless, such letter be posted in such time as will afford to the person addressed, after the receipt of such letter, the full period of notice required in the case.

105. Notices for Surveyors and Official Referees.

AND BE IT ENACTED, with regard to notices, so far as relates to the service thereof upon the Surveyors and upon the Official Referees, THAT IF the notice relate to the Surveyor, THEN such notice must be served at the office of the Surveyor; AND THAT IF the notice relate to the Official Referees or any of them, THEN such notice must be left at the Office of the Registrar of Metropolitan Buildings.

106. Consents by incapacitated persons.

AND BE IT ENACTED, with regard to consents by this Act required to be given by the owner or occupier of any building or ground,

MISCELLANEOUS.

ground, so far as relates to the making thereof on behalf of incapacitated persons, THAT IF such owner or occupier be a married female, not being a cestuique trust in regard to the property to which such consent relates, THEN such consent must be given by the husband of such married female; OR THAT IF such owner or occupier be an infant, idiot or lunatic or cestuique trust, THEN such consent must be given by the guardian, trustee or committee of such infant, idiot or lunatic or cestuique trust; OR THAT IF such owner or occupier, husband, trustee, guardian or committee be not known or cannot be found, THEN such consent must be given by the Official Referees.

107. Exemption from Stamp-duty.

AND BE IT ENACTED, with regard to the following documents, so far as relates to the payment of stamp-duty in respect thereof, THAT every certificate and every award required to be made or signed by the Surveyor or the Official Referee, shall be and is hereby exempted from stamp-duty.

108. Public Act.

AND BE IT ENACTED, THAT this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and other persons whomsoever, without specially pleading the same.

109. Amendment of Act.

AND BE IT ENACTED, THAT this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

SCHEDULES

SCHEDULES.

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SCHEDULES to which the foregoing ACT refers.

SCHEDULE (A.)—*(see §. 1.)*

Containing a Description of the Acts and Parts of Acts repealed by this Act.

DATE OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
1st.—14 Geo. III. c. 78. (1774.)	An Act for the further and better Regulation of Buildings and Party-walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, and the Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain conditions, Builders and other persons against the Penalties to which they are or may be liable for erecting Buildings within the limits aforesaid, contrary to law.	-- Wholly; except so far as any such Act may repeal any other Act, either wholly or partly, and except as to offences committed, penalties incurred, and fees payable, and any proceedings taken or commenced, or which might be taken or commenced, under the said Act, on or before the said First day of January One thousand eight hundred and Forty-five; and except the whole of the several sections of the said Act which relate to the keeping of fire-engines and ladders and fire-cocks (§. 74, 75), and to the fees or rewards to turncocks and engine-keepers (§. 76), and to the payment of such rewards or fees (§. 77, 78), and to the providing of engines by parishes (§. 80, 81), and to the payment of the expenses and rewards out of the poor-rates (§. 81), and to the exemption of watermen and others from impressment, or the liability to serve either as mariners or as soldiers (§. 82), and to the application of insurance-money on houses burnt (§. 83), and to the punishment of servants for carelessly firing a house (§. 84), and to the attendance of peace and parish officers at fires (§. 85), and to legal proceedings in respect of accidental fires (§. 86), and any other part of the said Act, so far as it is necessary for giving full effect to the respective purposes of such several unrepealed sections.
2d.—50 Geo. III. c. 75. (1810.)	An Act to amend an Act of the fourteenth year of his present Majesty for the better Regulation of Buildings and Party-walls; and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, by permitting John's Patent Tessera to be used in covering of Houses and Buildings within the places therein mentioned.	-- Wholly.
3d.—4 & 5 Will. IV. c. 35. (1834.)	An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimnies and Flues.	-- So much thereof as relates to the construction and regulation of chimnies and flues within the limits of this Act.
4th.—3 & 4 Vict. c. 85. (1840.)	An Act for the Regulation of Chimney Sweepers and Chimnies.	-- The same.

SCHEDULE (B.)—(*see* §. 5 & 7.)

Containing List of Buildings, of whatever Class, exempted from Ordinary Supervision, and placed under Special Supervision.

All bridges or structures wholly underground, and embankment walls and retaining walls, and wharf or quay walls:

s. 139. And Her Majesty's Royal Palaces, and any building being in the possession of Her Majesty, Her heirs and successors, or employed for Her Majesty's use or service:

s. 140. L. & P. 39 & 40 Geo. 3, c. And the offices and buildings of the Governor and Company of the Bank of England already erected, and which now form the edifice called "The Bank of England," and any offices and buildings hereafter to be erected for the use of the said Governor and Company, either on the site of or in addition to and in connection with the said edifice:

s. 141. L. & P. 6 Geo. 4, c. 105. And the warehouses of or belonging to the Saint Katharine Dock Company, and situate in the parish of Saint Botolph-without-Aldgate, and in the precinct of Saint Katharine, near the Tower of London, in the county of Middlesex:

L. & P. 9 Geo. 4, c. 116, s. 99. And the warehouses and buildings of or belonging to the London Dock Company, comprehended within the wall of the said Company, as set forth in an Act passed in the ninth year of the reign of his late Majesty King George the Fourth:

L. & P. 27 Geo. 3, c. 45., and 1 & 2 Vict., c. 9. And the several warehouses and buildings of or belonging to the East and West India Dock Company, established by an Act made in the first year of the reign of Her present Majesty:

L & P. 3 & 4 Will. 4, c. 36, and 5 & 6 Will. 4, c. 56, s. 126. And the buildings erected or to be erected by the London and Birmingham Railway Company, established and incorporated by an Act passed in the third year of the reign of his late Majesty King William the Fourth, within and in connection with the works of their Railway, by virtue of the several Acts relating thereto:

L. & P. 9 Geo. 4, c. 113. And the erections and buildings authorized by an Act passed in the ninth year of the reign of his late Majesty King George the Fourth, for the purposes of a market in Covent Garden:

And any other buildings exempted by any Act of Parliament from the operation of the Act passed in the year of his late Majesty King George the Third, and hereby repealed.

SCHEDULE (C.)—Part I.—(*see* §. 5.)

RULES for determining the Classes and Rates to which Buildings are to be deemed to belong for the purposes of this Act, and the Thicknesses of the Walls of Buildings of such Rates.

Classes of Buildings.

For the purposes of this Act, all buildings of whatever kind, subject to the provisions thereof, are to be deemed to belong to one or other of the following Three Classes; that is to say,—

First Class.

If a building be built originally as a dwelling-house, or be occupied or intended to be occupied as such,—then it is to be deemed to belong to the First or Dwelling-house Class.

Second

SCHEDULE (B.)—PART I.—*continued.*

Second Class.

If a building be built originally as a warehouse, storehouse, granary, brewery, distillery, manufactory or workshop, or be occupied or intended to be occupied as such, or for a similar purpose,—then it is to be deemed to belong to the SECOND or WAREHOUSE Class.

Third Class.

If a building be built originally as a church, chapel or other place of public worship, college, hall, hospital, theatre, public concert-room, public ball-room, public lecture-room, public exhibition-room, or occupied or intended to be occupied as such, or for a similar purpose, or otherwise used or intended to be used either occasionally or constantly for the assemblage of persons in large numbers, whether for public worship, business, instruction, debate, diversion or resort,—then it is to be deemed to belong to the THIRD or PUBLIC BUILDING Class.

Alteration of Class.

And if any room, whether constructed within any other building or not, and whether included in the aforesaid Classes or not, beused at any time for the public or general congregation of persons, —then the building containing such room is to be deemed a building of the THIRD or PUBLIC BUILDING Class.

Or if a building originally built, or subsequently altered, so as to bring it within any one Class, be subsequently converted into or used as a building of another Class,—then it is to be deemed to belong to such other Class; and, as to it, all the conditions prescribed with regard to buildings of the same rate of such other Class must be fulfilled, as if it had been originally built of such Class; subject nevertheless to such modifications as shall be sanctioned by the Official Referees on a special supervision thereof.

Rates of Buildings.

And the buildings included in the said CLASSES are to be deemed to belong to the RATES of those Classes, according to the conditions of height, area and number of stories, set forth in the following Tables; which conditions are to be determined according to the following Rules:—

Rule for ascertaining Height.

The height of every building is to be ascertained by measuring from the surface of the first or lowest floor of the building, up to the underside of the ceiling of the topmost story at the highest part thereof, whether such story be within the roof or not:

And if there be no ceiling made or intended to be made to the topmost story,—then by measuring from the surface of such first or lowest floor of the building up to the underside of any tie-beam, collar-beam, or other substitute for a tie-beam of the highest roof.

Rule for ascertaining Area.

And the area of every building is to be determined by the number of squares contained in the surface of any floor which shall contain the greatest number of squares at or above the principal entrance to such building; including in such surface the area of all the external walls and such portions of the party-walls as belong to such building, but excluding from such surface the area of any attached office, area, balcony or open portico:

Rule for ascertaining Stories.

And the stories of every building are to be counted from the foundation, upwards.

And if the space between the top of the footings and the level of the first floor do not exceed five feet,—then the story nearest the foundation is to be considered the lowest or first story; but if such space exceed five feet,—then such space is to be considered to contain the lowest or first story; and in that case the top of the footing is to be considered the level of the first floor.

Rule for ascertaining Thickness of Walls.

And the thickness of every wall, and of the footing thereof, is to be ascertained by measuring only the thickness of which such walls or footings shall have been originally built.

SCHEDULE (C.)—PART II.—(*see* §. 5.)

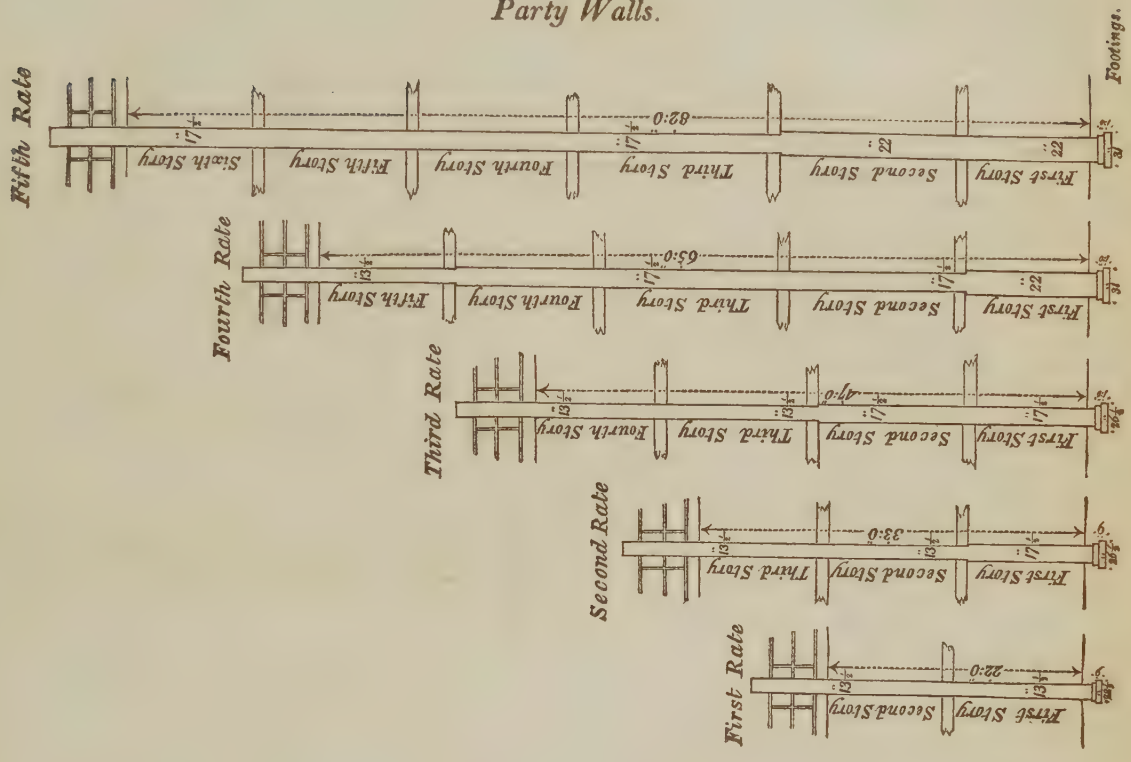
CONDITIONS for determining the RATES to which BUILDINGS of the FIRST or DWELLING-HOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL and of the PARTY-WALLS thereof.

In reference to HEIGHT.	In reference to AREA.	In reference to STORIES.	RATE of BUILDING.	REQUISITE THICKNESS of EXTERNAL WALLS of each Rate of the FIRST CLASS.	REQUISITE THICKNESS of PARTY-WALLS of each Rate of the FIRST CLASS.
1. If the building be in height not more than 22 feet,	-- If the building do not cover more than 4 squares,	-- If the building do not contain in height more than 2 stories,	-- It is to be of the FIRST OR LOWEST RATE of this Class.	-- AND the thickness of the external walls must be, at the least, 8½ inches from the top of the footing to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 13½ inches from the top of the footing to the top of the wall.
2. If more than 22, and not more than 33 feet,	-- OR if it cover more than 4, and less than 6 squares,	-- OR if it contain three stories,	-- It is to be of the SECOND RATE.	-- AND the thickness of the external walls must be, at the least, 13½ inches from the top of the footing to the under-side of the gutter-plate; and at the least 8½ inches from the under-side of the plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 17 ½ inches from the top of the footing to the under-side of the second floor; and at the least 13 ½ inches from the under-side of the second floor to the top of the wall.
3. If more than 33, and not more than 47 feet,	-- OR if it cover more than 6, and less than 8 squares,	-- OR if it contain four stories,	-- It is to be of the THIRD RATE.	-- AND the thickness of the external walls must be, at the least, 17 ½ inches from the top of the footing to the under-side of the second floor; and, at the least, 13 ½ inches from the under-side of the second floor to the under-side of the gutter-plate, and, at the least, 8½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 17 ½ inches from the top of the footing to the under-side of the third floor; and, at the least, 13 ½ inches from the under-side of the third floor to the top of the wall.
4. If more than 47, and not more than 65 feet,	-- OR if it cover more than 8, and less than 10 squares,	- OR if it contain five stories,	-- It is to be of the FOURTH RATE.	-- AND the thickness of the external walls must be, at the least, 17 ½ inches from the top of the footing to the under-side of the third floor; and, at the least, 13 ½ inches from the under-side of the third floor to the under-side of the gutter-plate, and, at the least, 8 ½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 22 inches from the top of the footing to the under-side of the second floor; and, at the least, 17 ½ inches from the under-side of the second floor to the under-side of the fifth floor, and at the least 13 ½ inches from the under-side of the fifth floor to the top of the wall.
5. If more than 65, and not more than 82 feet,	-- OR if it cover more than 10, and less than 12 squares,	-- OR if it contain six stories,	-- It is to be of the FIFTH RATE.	-- AND the thickness of the external walls must be, at the least, 22 inches from the top of the footing to the under-side of the second floor; and, at the least, 17 ½ inches from the under-side of the second floor to the under-side of the fourth floor; and, at the least, 13 ½ inches from the under-side of the fourth floor to the under-side of the gutter-plate; and, at the least, 8½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 22 inches from the top of the footing to the under-side of the third floor; and, at the least, 17 ½ inches from the under-side of the third floor to the top of the wall.
6. If more than 82 feet, -	-- OR if it cover more than 12 squares,	-- OR if it contain more than six stories,	-- It is to be of the SIXTH RATE, and of the THIRD CLASS.	-- AND the thickness of the external walls must be, at the least, 4 inches greater than is hereby required for walls of the fifth rate.	-- AND the thickness of the party-walls must be, at the least, four inches greater than is hereby required for walls of the fifth rate.

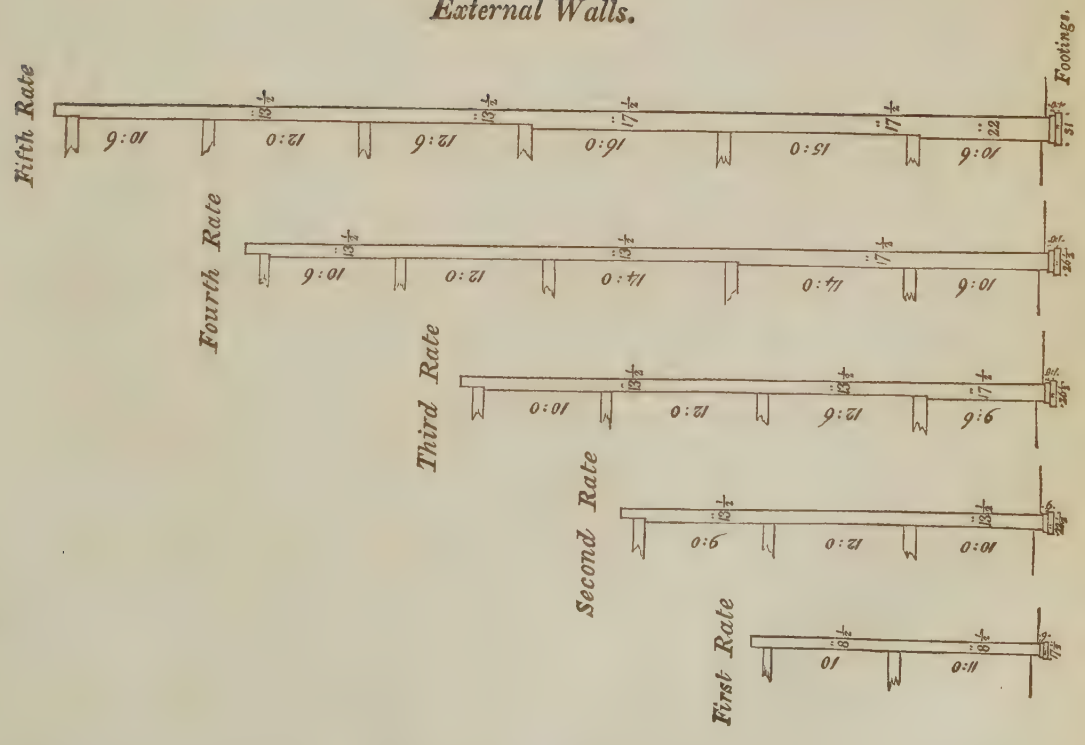
SCHEDULE (C.)—Part II.

FIRST OR DWELLING-HOUSE CLASS.

Party Walls.



External Walls.

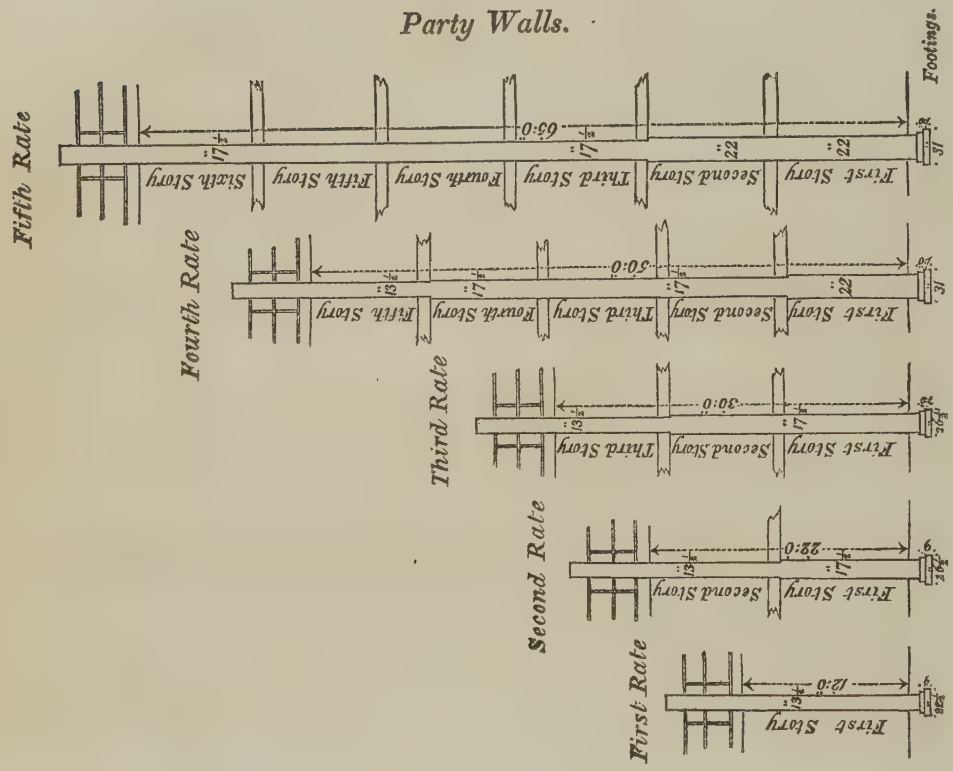


N. B.—The measurements of stories given in these illustrations are intended merely to show what heights of stories may be introduced into the height to which each rate of building is limited.

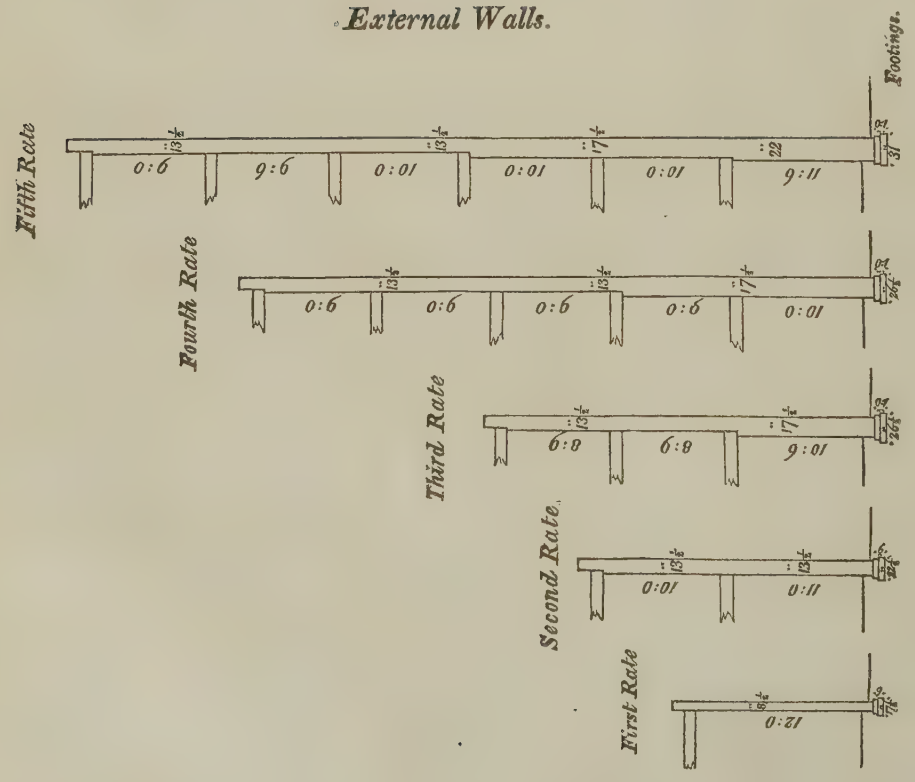
SCHEDULE (C.)—PART III.

SECOND OR WAREHOUSE CLASS.

Party Walls.



External Walls.



N.B.—The measurements of stories given in these illustrations are intended merely to show what heights of stories may be introduced into the height to which each rate of building is limited.

SCHEDULE (C.)—PART III.—(*see* §. 5.)

CONDITIONS for determining the RATES to which BUILDINGS of the SECOND or WAREHOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL and of the PARTY-WALLS thereof.

In reference to HEIGHT.	In reference to AREA.	In reference to STORIES.	RATE of BUILDING.	REQUISITE THICKNESS of the EXTERNAL WALLS of each Rate of the SECOND CLASS.	REQUISITE THICKNESS of the PARTY-WALLS of each Rate of the SECOND CLASS.
1. If the building be in height not more than 12 feet,	-- If the building do not cover more than 6 squares,	-- If the building do not contain in height more than one story,	-- It is to be of the FIRST or LOWEST RATE of this Class.	-- AND the thickness of the external walls must be, at the least, 8½ inches from the top of the footing to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 13½ inches from the top of the footing to the top of the wall.
2. If more than 12, and not more than 22 feet,	-- OR if it cover more than 6, and less than 10 squares,	-- OR if it contain two stories,	-- It is to be of the SECOND RATE.	-- AND the thickness of the external walls must be, at the least, 13½ inches from the top of the footing to the under-side of the gutter-plate; and, at the least, 8½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing to the under-side of the second floor, and 13½ inches from the under-side of the second floor to the top of the wall.
3. If more than 22, and not more than 30 feet,	-- OR if it cover more than 10, and less than 18 squares,	-- OR if it contain three stories,	-- It is to be of the THIRD RATE.	-- AND the thickness of the external walls must be, at the least, 17½ inches from the top of the footing to the under-side of the second floor; and, at the least, 13½ inches from the under-side of the second floor to the under-side of the gutter-plate; and, at the least, 8½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing to the under-side of the third floor, and, at the least, 13½ inches from the under-side of the third floor to the top of the wall.
4. If more than 30, and not more than 50 feet,	-- OR if it cover more than 18, and less than 26 squares,	-- OR if it contain five stories,	-- It is to be of the FOURTH RATE.	-- AND the thickness of the external walls must be, at the least, 17½ inches from the top of the footing to the under-side of the third floor; and, at the least, 13½ inches from the under-side of the third floor to the under-side of the gutter-plate; and, at the least, 8½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 22 inches from the top of the footing to the under-side of the second floor, and, at the least, 17½ inches from the under-side of the second floor to the under-side of the fifth floor, and at the least 13½ inches from the under-side of the fifth floor to the top of the wall.
5. If more than 50, and not more than 65 feet,	-- OR if it cover more than 26, and less than 35 squares,	-- OR if it contain six stories,	-- It is to be of the FIFTH RATE.	-- AND the thickness of the external walls must be, at the least, 22 inches from the top of the footing to the under-side of the second floor; and, at the least, 17½ inches from the under-side of the second floor to the under-side of the fourth floor; and, at the least, 13½ inches from the under-side of the fourth floor to the under-side of the gutter-plate, and, at the least, 8½ inches from the under-side of the gutter-plate to the top of the wall.	-- AND the thickness of the party-walls must be, at the least, 22 inches from the top of the footings to the under-side of the third floor; and, at the least, 17½ inches from the under-side of the third floor to the top of the wall.
6. If more than 65 feet -	-- OR if it cover more than 35 squares,	-- OR if it contain more than six stories,	-- It is to be of the SIXTH RATE, and of the THIRD CLASS.	-- AND the thickness of the walls must be, at the least, 4 inches thicker than is hereby required for walls of the 5th rate.	-- AND the thickness of the party-walls must be, at the least, 4 inches thicker than is hereby required for walls of the fifth rate.

SCHEDULE (C.)—Part IV.

RULES concerning Buildings of the Second or Warehouse Class.

Warehouses, &c.

With regard to any building of the Second Class, (except stables, coach-houses and harness-rooms), hereafter built or rebuilt, in reference to the area thereof within the same party-walls;—

If such building exceed 35 squares,—then it must have for every 35 squares thereof party-walls; unless such portions of such building as shall be thought necessary by the official referees be built fire-proof.

Openings in Party-walls.

And with regard to buildings of the Second Class, in reference to the openings in such party-walls;—

Such openings must not be wider than six feet, and not higher than eight feet;

And the floor thereof must be composed of brick or stone,

And the piers thereof must be composed of brick, and must be at least 14 inches wide, and must project at least one foot six inches from the face of such party-wall;

And the brick-arches or stone landings thereof must extend the entire width and depth of such opening, above and below the same;

And every such opening must have two strong wrought-iron single or folding doors, which must be fixed in wrought-iron frames, and be not less than one-fourth of an inch thick in the panels thereof;

And each of such doors must be distant from the other not less than four feet.

Fire-proof Part of Buildings.

And with regard to such Second Class buildings so built in part fire-proof, in reference to the construction and materials of such fire-proof part,—It must be built of such materials and in such manner as shall be approved by the official referees.

And such buildings must be so built as that every single part not built fire-proof must not exceed 35 squares.

Stables.

And with regard to any buildings intended for stables, including coach-houses and harness-rooms, which shall be hereafter built, in reference to the area thereof, within the same walls,—No portion thereof must contain within its walls, whether party-walls or external walls, more than twenty-five squares, nor must any enlargement be made at any time hereafter to any building for stables already built, or which shall be hereafter built, so that any portion of the same when enlarged, including coach-houses and harness-rooms, shall contain more than 25 squares as aforesaid.

SCHEDULE (C.)—Part V.

REQUISITES for determining the Rate to which any Building of the Third Class is to be deemed to belong.

If any building of the Third or Public Building Class correspond in form or structure or disposition with a dwelling-house,—then the Rate thereof is to be determined by the same rules as the Rates of the First or Dwelling-house Class.

But if it correspond in form or structure or disposition with a warehouse, or any building of the Second Class,—then the Rate thereof is to be determined by the same Rules as the Rates of the Second or Warehouse Class.

And further with regard to the walls of such public buildings of whatever Rate,—The width of the footings thereof and the thicknesses thereof are to be at the least four inches more than is hereby required for party or external walls of the same Rate, unless the Official Referees, on special supervision thereof, shall otherwise appoint.

SCHEDULE (C.)—*continued.*

PART VI.—RULES concerning attached and detached and insulated Buildings, as to the Rates and Walls thereof.

Buildings and Offices.

With regard to buildings or offices now built or hereafter to be built, (except greenhouses, vineries, aviaries, or such like buildings,—and that, whether the same be attached to or detached from the buildings to which they belong),—

Every such building is to be deemed, in respect of the external walls thereof, and all other requisites, as a building of the rate to which it would belong if it had been built separately; but the party-walls, if any, must be of the rate of the house to which the building or office is attached, or of the rate of the building of the highest rate attached to such party-wall on either side.

Greenhouses, &c.

And with regard to greenhouses for plants, vineries, aviaries, or such like buildings,—

Subject to any law in force applicable to such buildings, and subject to the rights of the owner or occupier of the adjoining property,—Any such building may be built, as to the party-walls, if any, according to the rules of this Act prescribed respecting party-walls; but in other respects, whether the same be attached or detached from any building of whatever Class, such building must be built in such manner only, and of such materials only, as shall be approved by the Official Referees.

Insulated Buildings.

And with regard to buildings of the first or Dwelling-house Class, and of the second or Warehouse Class, which shall be insulated,—

Every such building must be distant from any public street or alley one-third of its height at the least;

And if the building do not exceed 24 feet in height,—then it must be so distant at the least eight feet; and it must be distant from any other building, or from ground not in the same possession or occupation therewith, or connected therewith only by a fence or fence-wall, not less than its full height; or if the building do not exceed 30 feet in height,—then it must be so distant at the least 30 feet;

And if such building be so distant from a public street or alley, and from any other building or ground not in the same possession or occupation therewith,—then such building is not to be liable in respect of the dimensions and materials thereof to the rules and directions of this Act.

Insulated Buildings afterwards divided.

PROVIDED always, That if any such building be hereafter divided into two or more distinct buildings, and the several parts of such buildings so divided be not at the aforesaid distance from each other, and from other buildings and ground,—then such several parts must have such external walls, and be separated from each other by such party-walls, as are herein prescribed for the rates to which such several parts, if adjoining, would belong; and must be built in every other respect as is herein required for buildings of the rates to which such several parts when so divided shall belong.

And the external walls of the several parts of such building must be built in the manner, and of the materials, and at the least of the several heights and thicknesses herein prescribed for external walls of the Rates such several parts shall be of when so divided.

And if such requisites be not observed,—then such several parts of such buildings in respect of which they are not so observed, shall be deemed a public nuisance, and as such be taken down, according to the provisions of this Act in that behalf.

Toll-houses, &c.

And with regard to certain buildings which shall be built for the purposes of trade or the collection of toll,—

If such buildings be situate fifteen feet at the least from any other building, and do not cover an area of more than one and a half squares, and the height thereof do not exceed twelve feet from the ground to the highest point of the roof,—then every such building may be enclosed with any materials whatsoever; but the roof thereof must be covered as herein directed with regard to roofs, and the chimney and flue (if any) must be built as herein directed with regard to chimnies and flues.

SCHEDULE (D.)

PART I.—RULES concerning WALLS of whatever Kind.

Foundations.

With regard to the FOUNDATIONS of WALLS, in reference to the construction and materials thereof,—

Every such foundation must consist either of a natural solid stratum, or be formed of a bed of concrete; which concrete must be composed of stone-lime, mixed with Thames ballast, or broken stone or flint, or sharp clear gravel, or burnt clay, in the proportion of at least one bushel of stone-lime to eight bushels of such other materials; and must be at least 18 inches thick, and 12 inches wider than the bottom of the footing; or must be composed of such other materials and be formed in such other manner as the Official Referees shall license or appoint.

Footings.

With regard to footings of walls, in reference to the materials thereof, to the construction thereof, to the width thereof, to the height thereof above the foundation, and to the depth below the surface,—

Materials.

1. In reference to the materials thereof:—
   Every footing must be built, either of stone, of good sound stock-bricks, or of good sound stock-bricks and stone, and laid in good mortar or cement.

Construction.

2. In reference to the construction thereof:—
   The footing of every wall, whether external or party (except external and party-walls of the First and Second Rates), and that whether the footing be built of brick-work, or of brick and stone-work, must be built in two double courses at the least.
   The footing of every party-wall for a building of the First rate, or of external or party-walls for buildings of the Second Rate, whether such footing be built of brick-work, or brick and stone-work, must be built in one double and one single course at the least.
   The footings of external walls for a building of the First Rate, whether such footings be built of brick-work, or of brick and stone-work, must be built in two single courses at the least.

Width.

3. In reference to the width thereof at the foundation :—
   The bottom of the footing of every wall must be at the least nine inches wider than the wall standing thereon; and whether such footing be built of brick-work, or of brick and stone-work, it must diminish equally on each side by two inches at the least in each successive single or double course from the bottom.

Height.

4. In reference to the height above the foundation :—
   The footing of every wall, whether party or external (except the footings of the external walls and party-walls of the First and Second Rates), must be at least twelve inches high above the foundation.
   The footing of the party-walls of the First Rate, and of external and party-walls of the Second Rates, must be at least nine inches high above the foundation.
   The footing of external walls of the First Rate, must be at the least six inches high above the foundation.

Depth below Ground.

5. In reference to the depth thereof below the surface of the lowest ground or area adjoining :—
   The top of the footing of every external wall and party-wall must be at the least three inches below such surface.

Depth below lowest Floor.

6. In reference to the depth thereof below the surface of the lowest floor adjoining or intended to adjoin thereto :—
   The top of the footing of every external wall and party-wall must be at the least nine inches below such surface.

Walls generally.

With regard to every party-wall, external wall or internal wall of every building of the First or dwelling-house Class hereafter built, and of every addition to such building, whether already built or hereafter built,—The two courses of brick-work immediately below the level of the bottom of the paving, or of the timbers of the lowest or first floor, must be of good sound bricks laid in good cement.

SCHEDULE (D.)—*continued.*

Part II.—*External Walls.*

Materials.

And with regard to external Walls of buildings, (except those parts thereof in which it may be required to fix plates, lintels, bonds, corbels and wood-bricks, ends of joists, girders, heads and sills of partitions, breastsummers and story posts, and except openings for doors and windows, shop-fronts and door-cases to warehouses),—

Every such wall must be built solid, and of good sound bricks or good sound stone, or of good sound bricks and stone, properly bonded, and set in good and well-compounded mortar or cement.

Nevertheless, in such walls, in every story above the level of the floor of the third floor, recesses may be formed ; so that such recesses be arched over the full thickness of the wall; and so that the back thereof be of the thickness of at least eight inches and a half; and so that the stability of the wall be not endangered thereby.

Height.

And with regard to external walls, in reference to the height thereof,—

If an external wall adjoin a gutter,—then such external wall must be carried up and remain one foot at the least above the highest part of such gutter.

And if the roof overhang the wall,—then such wall must be carried up its full thickness to the under-side of the plate of the roof.

Wood and Iron.

And with regard to such excepted parts of external walls,—

They may be of such wood and iron as shall be necessary.

And every plate, lintel, bond, corbel and wood-brick, and all ends of joists, girders and heads and sills of partitions, must be fixed at a distance from the external face of the wall of four inches at the least.

And the frames of doors and windows must be fixed in reveals at a distance from the external face of the wall of four inches at the least.

And such wood and iron work as shall be required for breastsummers, girders and story-posts (which must be only in the lowest and second stories), must be fixed at a distance from the external face of the wall of two inches at the least; and must not exceed a height of 15 feet from the public foot pavement or footway in front of the building to the underside of the breastsummer or girder.

And shop-fronts must be fixed in such manner as is herein specially directed.

And the tiers of door-cases to warehouses must be fixed in the openings left in such walls, at a distance from the external face of the wall of two inches at the least.

Breastsummers.

With regard to every breastsummer fixed to carry any front wall of a building,—

If such breastsummer have a bearing at one end upon a party-wall,—then it must be laid upon a template or corbel of stone or iron, which template or corbel must be tailed through such wall at least two-thirds of the thickness thereof; and the end of such breastsummer must not be fixed into, and must not have its bearing solely on such party-wall, but must be supported by a sufficient pier built of brick or stone, or an iron column, or iron or timber story-post fixed on a solid foundation.

And if any such breastsummer have its bearing at each end upon a party-wall,—then it must be supported by at least two sufficient piers built of brick or stone, or by iron columns or iron or timber story-posts fixed on solid foundations.

And every such breastsummer must be of such scantlings, and fixed and supported in such manner as shall be satisfactory to the surveyor.

Materials to be used in Repairs.

And with regard to old external Walls or other external inclosures of any building already built, in reference to materials to be used in the repair thereof,—

If any such wall or inclosure be not built of the materials required by this Act for external walls or other external inclosures hereafter to be built,—then every part of such wall or other external inclosure, (except the inclosure of roofs, and the flats, gutters, dormers, turrets, lantern-lights and other erections thereon,) may be at all times thereafter repaired with materials of the same sort as those of which such external wall or inclosure has been already built.

Materials to be used in Rebuilding.

But if any such external wall or inclosure be at any time hereafter taken down or otherwise demolished for the height of one story, or for a space equal to one-fourth of the surface thereof,—then every part thereof, not built in the manner and of the several materials

SCHEDULE (D.)—PART II.—*continued.*

by this Act directed for external walls, must be taken down; and the same must be rebuilt in such manner, and of such materials, and in all respects as by this Act directed for external walls hereafter to be built, according to the class and rate of the building to which such external wall or inclosure shall belong.

External Wall used as a Party-wall.

And with regard to external Walls to be used as party-walls to any building adjoining thereto, (except an attached building or office as is hereinbefore described),—

If the external wall of any building have not such footings, or be not of such heights and thicknesses, or be not built in such manner and of such materials as are herein directed for party-walls of buildings of the highest rate to which such wall shall adjoin,—then such external wall must not be used as a party-wall for any such building; but there must be a distinct external wall built as herein described for external walls, of the rate to which it shall belong.

PART III.—*Party-walls.*

Division of Buildings.

And with regard to walls used to divide single buildings into two or more,—

If it be intended to divide any building into two or more distinct parts,—then every wall for that purpose must be built as a party-wall, in the manner and of the materials, and of the several heights and thicknesses for party-walls of the highest rate of building to which such party-wall shall belong or adjoin, as prescribed in reference to the thicknesses of party-walls in Schedule (B.)

And if any building already built or which shall be hereafter built, be converted, used or occupied as two or more separate buildings, each having a separate entrance and staircase, and each being separately rated to the poor,—then every such building shall be deemed to be two or more separate houses, and must be divided from each other by a party-wall or party arch or arches, built in the manner and of the materials required for party-walls or for party-arches for the class and rate to which the largest of the buildings so divided shall belong.

Site of Walls.

With regard to party-walls, in reference to the site thereof,—

If the buildings be of equal rate,—then such party-wall must be built on the line of junction of such buildings, One-half on the ground of one owner belonging to one of such buildings, and One-half on the ground of the other owner belonging to the other of such buildings.

If such buildings be of different rates,—then such wall must be built on the line of junction thereof, as follows; that is to say,—

So much thereof as shall be required for the building of the higher rate, on the ground of the owner of such building, and

So much thereof as shall be required for the building of the lower rate, on the ground of the owner of such building of the lower rate;

And if such building of the lower rate be thereafter enlarged or altered, so as to become a building of a higher rate,—then the owner of such first-mentioned building of the higher rate, for the time being, shall be entitled to receive from the owner of such building of the lower rate, such sum of money as shall be a sufficient compensation for the ground occupied by that portion of the party-wall, which, according to the rate of the building enlarged, ought to have been built by its owner on his own ground.

Construction and Materials.

And with regard to Party-walls, in reference to the materials thereof, (except flues and those parts thereof in which it may be required to fix ironwork and the following iron or timber, viz., the sides of story-posts, the ends of girders, and breastsummers and trimming joists, and principal timbers of roofs, and heads and sills of partitions and wood-bricks),—

Every part of such party-wall must be built solid and of good sound bricks or good sound stone, or good sound bricks or stone, properly bonded and set in good and well-compounded mortar or cement.

And as to the said timber or iron, in reference to the position thereof,—The sides of story-posts, not exceeding fifteen feet in height above the pavement of the street in front thereof, the ends of girders, breastsummers, trimming joists, principal timbers of roofs, and heads and sills of partitions, the ends of such timbers and wood-bricks, must be fixed at a distance of four inches at the least from the centre of such party-wall.

But if the ends of timbers be carried on iron shoes or stone corbels, then such iron shoes or stone corbels may be built into the wall at least two-thirds of the thickness of such wall.

And the top of every such party-wall must be finished with one course of sound stock-bricks, set on edge with good cement, or a coping of any other waterproof and fireproof covering.

Height.

SCHEDULE (D.)—PART III.—*continued.*

Height.

And with regard to Party-walls, in reference to the height thereof,—

If a party-wall adjoin to any roof,—then such party-wall must be carried up and remain one foot six inches at the least above the part where the party-wall and roof adjoin, measured at a right angle with the back of the rafters of such roof.

And if any party-wall adjoin a gutter,—then such party-wall must be carried up, and remain two feet at the least above the highest part of any such gutter.

If there be fixed within five feet of a party-wall, upon the flat or roof of the building, any turret, dormer, lantern-light or other erection,—then every such party-wall must be carried up next to every such turret, dormer, lantern-light or other erection, and must extend one foot six inches higher, and one foot six inches wider than any such erection on each side thereof.

Openings in Party-walls.

And for the purpose of regulating the making of Openings through any party-wall between one dwelling-house and another, whereby two or more dwelling-houses shall be united.

With regard to any dwelling-houses which when so united will contain more than twelve squares, and the external and party-walls of which are such as are herein prescribed for Buildings of the Fifth Rate of the First Class,

If such dwelling-houses shall be and continue to be in the same occupation,—and if the poor-rates in respect thereof shall be paid by the same person,—then upon its being declared by the official referees that in their opinion the stability of any or either of such dwelling-houses will not be endangered by making such openings, they may be made accordingly.

Recesses and Chases.

And further, with regard to any party-wall, as to Recesses, and as to Chases in such wall,—

In every story above the level of the floor of the third story, recesses may be formed, so that such recesses be arched over, and so that the back thereof be not nearer than seven inches to the centre of the party-wall, and so that the stability of such party-wall be not endangered thereby.

If any Chases be required for the insertion of ends of walls, of piers, of chimney-jambs, of withes of flues, of metal pipes, or of iron story-posts,—then every Chase for any such purpose must not be left or cut nearer than four inches at the least to the centre of a party-wall, and at the distance of nine inches at the least from any front or back wall, and at the distance of seven feet six inches at the least from each other on the same side of the wall, and must not be formed wider than nine inches.

And if any hole or cavity be left or made for the insertion of templates, or of landings, or of stone steps, or of corbels, or of iron shoes, or of ends of girders, or of ends of breastsummers, or of ends of trimming joists, or of heads and sills of partitions, or of ends of principal timbers of roofs,—then such hole or cavity must not be left or cut deeper than two-thirds of the thickness of such wall; and on such insertion being made, such hole or cavity must again be made good.

PART IV.—*Party-walls and Party-arches between intermixed Property.*

And with regard to any building already built, having rooms or floors, the property of different owners, which lie intermixed, without being separated by any party-wall or party-arch or stone floor,—

If either of such houses shall be altogether or in part rebuilt, to the extent of one-fourth of the cubical contents thereof,—then such intermixed properties must be separated from each other as follows:

If they adjoin vertically,—then so far as they adjoin vertically, they must be separated by a party-wall.

If they adjoin horizontally,—then so far as they adjoin horizontally, they must be separated either by a floor formed of brick, tile, stone or other proper and sufficient incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or tiles, or by a party-arch or party-arches of brick or stone of the thickness of nine inches at the least, if the span do not exceed nine feet, and thirteen inches at the least if the span exceed nine feet; and such floor or party-arch or party-arches must be built with sufficient abutments and in a sufficient manner.

PART V.—*Buildings over Public Ways.*

And with regard to buildings extending over any public way, as to the part thereof which extends over such way, so far as relates to the separation of such part from such public way,—

If such part be rebuilt,—then it must be separated from such public way, either by a floor or arch formed of brick or stone, or of other incombustible materials, subject to the consent

SCHEDULE (D.)—PART V.—*continued.*

consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or by an arch formed of brick and stone; which arch, if the span thereof do not exceed nine feet, must be of the thickness of nine inches at the least, and which if the span exceed nine feet, must be of the thickness of thirteen inches at the least.

And such floor or arch, with its abutments, must be built in such manner as shall be approved of by the surveyor; but there must not be formed over such public way any ceiling of lath and plaster, or of lath and cement.

PART VI.—*Party Fence-Walls.*

And with regard to party-fence-walls, in reference to the thickness thereof, and to the height thereof,—

The footing of every party-fence-wall must be six inches high at the least, and nine inches wider at the least than the wall immediately above it; and the top thereof must be in depth three inches at the least below the surface of the ground adjoining; and every such footing must be built in two courses at the least.

And the thickness of every such party-fence-wall must be in every part thereof one-twelfth at the least of the whole height of the wall, measured from the top of the footing to the top of the wall, and including any coping upon the wall; or if the wall be less than 8 ½ feet high, then such thickness thereof must be 8 ½ inches at the least.

And every party-fence-wall, less than nine feet above the ground on either side thereof, may be raised to that height, by the owner of the ground, on the side on which it is less than that height; but upon condition that he do pay all the costs and charges of so raising it.

SCHEDULE (E.)—(*see* §. 5.)

RULES concerning external PROJECTIONS.

Projections from Walls of Buildings.

And with regard to all buildings, in reference to projections therefrom (except the porticoes of churches, chapels, theatres or other public buildings, but including steps, cellar-doors and area inclosures),—The WALLS of all such buildings must be set back, so that all projections therefrom, and also all steps, cellar doors and area inclosures, shall only overhang or occupy the ground of the owner of such building, without overhanging or encroaching upon any public way.

Porticoes projected over Public Ways.

And with regard to the porticoes of any church, chapel, theatre or other public building of the Third Class,—

If the building of the same shall have been previously sanctioned by the official referees, by writing under their hands, and if objection be not made by any party interested within one month thereafter, and if upon such objection or appeal, Her Majesty's Principal Secretary of State acting for the Home Department, do not decide in favour thereof,—then such projections may be built over the foot pavement of any street or alley which shall be fifty feet wide at the least (notwithstanding any Act heretofore passed to the contrary).

Projections from face-walls, &c.

And further, with regard to buildings, in reference to projections therefrom,—

As to copings, parapets, cornices to overhanging roofs, blocking-courses, cornices, piers, columns, pilasters and entablatures, facias, door and window dressings, or other architectural decorations, forming part of an external wall,—All such projections may project beyond the general line of fronts in any street or alley, but must be built of the same materials as are by this Act directed to be used for building the external walls to which such projections belong.

And as to all balconies, verandahs of light-open-iron-work, porches, porticoes, shop-fronts, open inclosures of open areas, and steps and water-pipes and to all other projections from external walls, not forming part thereof,—Every such projection (except such part of shop-fronts, and the frames and sashes of the windows and doors, in reference to the necessary wood-work thereof,) may project beyond the general line of fronts in any street or alley, but must be built of brick, tile, stone, artificial stone, slate, cement or metal, or other proper and sufficient fire-proof materials.

Projections from insulated Buildings.

PROVIDED ALWAYS, with regard to any insulated buildings, that if the projections be at the least 10 feet from any public way, and if they be at least 20 feet from any other building not in the same occupation,—then such projections are excepted from the rules and directions of this Act.

Wooden

SCHEDULE (E.)—*continued.*

Wooden Shop Fronts and Shutters.

And with regard to shop-fronts and their entablatures, their shutters and pilasters and stall-boards, made of wood,—

If the street or alley in which such front is situate be of less width than 30 feet,—then no part of such shop-front must be higher, in any part thereof, than 15 feet; nor must any part, except the cornice, project more than five inches; nor must the cornice project more than 13 inches.

If the street or alley be of a greater width than 30 feet,—then no part of such shop-front must be higher in any part thereof than 15 feet; nor must any part except the cornice project more than 10 inches; nor must the cornice project more than 18 inches.

And the width of such street or alley must be ascertained by measuring the same, as hereinafter directed with regard to the streets and alleys.

And the wood-work of such shop-front must not be fixed nearer than 4½ inches to the centre line of a party-wall.

And with regard to such wood-work; If it be put up at such distance of 4½ inches,—then a pier or corbel built of stone or of brick or other incombustible material, and of the width of 4½ inches at the least, must be fixed against such wood-work, so as to be as high as such wood-work, and so as to project one inch at the least in front of the face thereof.

And the height of every shop-front must be ascertained by measuring from the level of the public foot-pavement in front of the building.

And every sign or notice-board fixed against or upon any part of any house must be so fixed that the top shall be within 18 feet at the most above the level of the street or alley.

Projections beyond the general Line of Buildings and from other external Walls.

And with regard to buildings already built or hereafter to be rebuilt, as to bow windows or other projections of any kind,—

Such projections must neither be built with nor added to any building on any face of an external wall thereof, so as to extend beyond the general line of the fronts of the houses (which general line may be determined by the surveyor), except so far as is hereinbefore provided with regard to porticoes projected over public ways, and with regard to projections from face-walls and shop-fronts; nor so as to overhang the ground belonging to any other owner; nor so as to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto, on any side thereof.

SCHEDULE (F.)—(*see* §. 5.)

RULES concerning CHIMNIES hereafter built or rebuilt.

Construction.

With regard to chimnies and chimney stacks, in reference to the construction thereof,—

The foundations and footings of every such chimney and chimney stack must be built similar to those of the wall in or adjoining to which it shall be.

And the brick-work of every flue in any party-wall must be built from the foundation of such wall, of the full thickness required for such flue; so that the brick-work of such flue shall not in any part thereof oversail or overhang any part of such party-wall.

And every stack containing two or more flues (except angle chimnies) must be built from the foundation to the top thereof, without any corbelling over, whereby any upper part of the brick-work of such stack shall oversail or overhang any lower part of the brick-work on the front thereof.

Nevertheless, with regard to buildings of the fourth, fifth and sixth rates,—The jambs, breast and flue of any single chimney may be built upon brick, stone or iron corbels, above the ceiling of the third story of every such building.

And with regard to buildings of the second and third rates,—The jambs, breast and flue in any single chimney may be built upon brick, stone or iron corbels, above the ceiling of the second floor of every such building.

But the projection both of such jambs and breast, must not in any case exceed nine inches before the face of the wall or stack to which the same shall adjoin.

And with regard to angle chimnies,—Such chimnies may be built in the internal angle of any building, so that the width of the breast thereof do not exceed five feet; and so that it be properly supported on iron-girders, with brick-arches, or on strong stone-landings, not less than four inches thick, and tailed at least nine inches into each wall forming such angle.

Dimensions and Materials.

And with regard to chimnies, in reference to the dimensions of the jambs thereof,—

The jambs of every chimney must not be less than 8½ inches wide on each side of such opening.

SCHEDULE (F.)—*continued.*

And with regard to chimnies and flues, in reference to the thickness of the brick-work thereof,—

The breast of every chimney, and the front, back, withe, or partition of every flue, must be at least 4½ inches of good sound bricks, properly bonded, and the joints of the work filled in with good mortar or cement, and all the inside thereof, and also the outside or face thereof, next the interior of any building must be rendered or pargetted.

Timber or Woodwork.

And with regard to chimnies, in reference to timber,—

No timber must be placed over any opening for supporting the breast of any chimney; but there must be an arch of brick or stone over the opening of every such chimney, to support the breast thereof; and an iron bar or bars built into the jambs at least nine inches on each side where required to tie in the abutment.

And as to any timber or wood-work, in reference to the fixing thereof in or against any wall containing flues against any chimney-breast or chimney-jamb,—

If timber or wood work be affixed to the front of any jamb or mantle, or to the front or back of any chimney or flue,—then it must be fixed by iron nails or holdfasts, or other iron fastenings, which must not be or be driven nearer than four inches of any flue or the opening of any chimney, and such timber or wood-work must not be nearer than nine inches to the opening of any chimney.

Slabs.

And a slab or slabs of brick, tile, stone, slate, marble or iron, at least 18 inches longer than the opening of every chimney when finished, and 18 inches in front of the arch over the same, must be laid before the opening of every chimney.

And in every floor, except the lowest or first floor, such slab or slabs must be laid wholly on brick or stone, or on iron trimmers, of at least the same breadth and length; and in the lowest or first floor, they may be laid on a brick fender, or bedded on the solid ground.

Backs.

And as to the back of every chimney-opening of every building (except backs of chimnies in the first floor of buildings of the First, Second and Third Rates),—Every such back, in the lowest or first floor, must be at least 13 inches thick from the hearth to the height of 18 inches above the mantle, and in every other floor, at the least 8½ inches thick.

And as to the backs of chimney-openings in the first floor of buildings of the First, Second and Third Rates,—Such backs must be at the least 8½ inches thick:

Provided always, That if the chimney be built against an adjoining wall, not being a party wall,—then the back of every chimney-opening may be 4½ inches less than the several thicknesses above described.

Backs of Chimney-openings.

And as to backs of all chimney-openings,—If two chimnies be built back to back,—then the thickness between the same must be at the least of the thickness hereinbefore described for the back of one chimney-opening.

Angles of Flues.

And as to all flues, in reference to the angles thereof,—

If any flue be built with sufficient openings in it of not less size than nine inches square, and proper close iron doors and frames inserted in such openings, so that every part of such flue may be swept by machinery,—then every angle in such flue may be of any degree.

But if it be not so built,—then every such angle must be 135 degrees at least.

And every salient or projecting angle within a flue must be rounded off four inches at the least, and protected by a rounded stone or iron bar.

Close Fires.

And as to every oven, furnace, cokel or close fire, used for the purpose of trade or manufacture, It must be six inches at the least distant from any party-wall, and not upon nor within a distance of two feet of any timber or wood work.

And the floor on or above which such oven, furnace, cokel or close fire shall be built or fixed, must be formed and paved under and for a distance of two feet all round the same, with stone, brick, tile or slate at least two inches thick, or other proper incombustible materials, except iron.

Chimney Shafts.

And as to chimney shafts or flues,

Every chimney-shaft or flue hereafter built, raised or repaired, must be carried up in brick or stone work all round, at least four inches thick, to a height of not less than three feet above the highest part of such portion of the roof, flat or gutter adjoining thereto, measured at the point of junction.

And

SCHEDULE (F.)—*continued.*

And as to any chimney-shaft, (except that of a steam-engine, brewery, distillery or manufactory)—the brick or stone work of such shaft or flue must not be built higher than eight feet above the slope, flat or gutter of the roof which it adjoins, unless it be built of increased thickness, or be built with and bonded to another chimney-shaft, or otherwise secured to the satisfaction of the surveyor.

And as to the chimney shaft for any steam-engine, brewery, distillery or manufactory,—Such shaft may be erected of any height, so that it be of such additional strength and dimensions, and built in such manner as shall be satisfactory to the official referees.

Chimney-Pots, Tubes, &c.

And as to earthen or metal chimney-pots, tubes, funnels, or cowls of any description whatever,—If any such pot, tube, funnel or cowl be fixed so as that the top of it be higher than six feet above the brick or stone work of the flue on which the same shall be placed,—then the same must be so fixed to the satisfaction of the Surveyor, and must be fixed two feet at the least into the brick or stone-work of the flue on which it shall be placed.

Smoke Pipes.

And as to any metal or other pipe or funnel for conveying smoke or steam, in reference to the position thereof,—Such pipe or funnel must not be fixed against or in front of any face of any building in any street or alley, nor on the inside of any building nearer than 14 inches to any timber or other combustible material.

Cuttings into Chimneys.

And as to every chimney-shaft, jamb, breast or flue already built, or which shall be hereafter built, in reference to cutting the same,—No such erection shall be cut into for any other purpose than the repair thereof, or for the formation of soot-doors, or for letting in, removing or altering stove-pipes or smoke-jacks, except as directed for building an external wall against an old sound party-wall.

SCHEDULE (G.)—(*see* §. 5.)

RULES concerning Roof Coverings.

Materials.

With regard to Roof coverings, in reference to the materials thereof;—

If the external parts of any roof, flat or gutter of any building, or of any projection therefrom, and of any turret, dormer, lantern-light and other erection, on the roof or flat of any building, be hereafter built or rebuilt, stripped, ripped or uncovered,—then every such part (except the door-frames and doors, window-frames and sashes of such turrets, dormers, lantern-lights or other erections) must be covered with slates, tiles, metal, glass, artificial stone or cement, and such excepted parts may be made of such wood as shall be necessary.

Rain Water Pipes.

And with regard to the roof, flat and gutter of any building, and of any projection therefrom, and also balconies, verandahs and shop-fronts,—They must be so constructed, and so supplied with metal gutters and pipes, as to prevent the water therefrom dropping on to any public way.

SCHEDULE (H.)—(*see* §. 5.)

RULES concerning Drains to Buildings hereafter built.

Drains into Sewers.

With regard to the Drains of buildings of any class, and of every addition thereto;—

Before the several walls of such building shall have been built the height of 10 feet from their foundations, the drains thereof must have been properly built and made good, (that is to say) if there be in the front of the building, and within 30 feet therefrom, a common sewer into which it is lawful and practicable to drain,—then into such common sewer; and if there be not in such situation and within such distance any such common sewer,—then into cesspools, so as to render in either case such drains available

SCHEDULE (H.)—*continued.*

for the drainage of the lowest floor of such building, or addition thereto, and also of its areas, water-closets, privies and offices (if any).

And the inside of the main drains under and from every building for carrying off soil must be of or equal to an area at least nine inches in diameter.

And every such drain must be laid to a fall or current of at least half an inch to ten feet, and so as that the whole of every such drain within the walls of such building, shall be wholly covered over under the lowest floor, and independently thereof.

And every such drain within the walls of such building must be built and covered over with brick, stone or slate set in cement, so as to render the drain air-tight.

And of every such drain, two-thirds at the least of the lowest part of the inside thereof, must be rendered with cement.

And every part of such drain outside the walls of every building must be built of brick, stone or slate, set in mortar or cement.

Cesspools and Privies.

And with regard to Cesspools and Privies;—

If there be a common sewer in front and within 30 feet of any house,—then a cesspool must not be made for the reception of drainage from such house, unless there be, or shall be built, a good and sufficient drain from such cesspool to such common sewer.

And every cesspool for the reception of drainage or for any privy or water-closet which shall hereafter be built, must be steined with brick-work all round, at least eight and a half inches thick, and must be properly domed over at the top, and of at least three feet diameter in the clear, and five feet deep below the bottom of the drains at the entrance thereto.

And if any cesspool be built under a house,—then such cesspool must be built air-tight.

And every privy built in the yard or area of any building, or under any street or alley, must have a door, and be otherwise properly inclosed, screened and fenced from public view.

SCHEDULE (I.)—(*see* §. 5.)

RULES concerning STREETS and ALLEYS hereafter formed.

Width.

WITH regard to every such Street or Alley, in reference to the width thereof;—Every Street or Alley must be of at least the following width, in every part thereof respectively; that is to say,—

Every Street must be of the width of 30 feet at the least.
Every Alley must be of the width of 20 feet at the least.

Entrances to Alleys.

And with regard to every Alley in reference to the entrance thereof,—Every Alley must have either two entrances thereto, each being at least 20 feet wide, and open from the ground upwards, or one entrance thereto, being 30 feet wide, and open from the ground upwards.

Measurement of Width.

And with regard both to Streets and Alleys, the aforesaid width is to be ascertained by measuring (at right angles to the course thereof), such width only as shall be given up to or used by the public, or shall be paved or lighted at the public expense.

SCHEDULE (K.)—(*see* §. 5.)

RULES concerning DWELLING-HOUSES hereafter built or rebuilt, with regard to Back-yards and Areas, and Rooms under-ground, and in the Roof.

Back-yards.

WITH regard to back-yards or open spaces attached to dwelling-houses;—

Every house, hereafter built, must have an inclosed back-yard or open space of at least one square, exclusive of any building thereon.

And if any house already built, be hereafter rebuilt,—then, unless all the rooms of such house above such level can be lighted and ventilated from the street, or from an area of the extent of at least three-quarters of a square, into which the owner of the house to be rebuilt shall be entitled to open windows for every room adjoining thereto, there must be from above such level of the floor of the third story an open space of at least three-quarters of a square.

Under-

SCHEDULE (K.)—*continued.*

Under-ground Rooms.

And with regard to the lower rooms or cellars of buildings hereafter to be built or rebuilt;—

If any such room or cellar be used or intended to be used as a separate dwelling,—then the floor thereof must not be below the surface or level of the ground immediately adjoining thereto, unless it have an area, fire-place and window as described for rooms and cellars of existing buildings let separately and used as a separate dwelling, and unless it be properly drained.

And with regard to every room or cellar in any existing building used or intended to be used as a separate dwelling;—

The area of such room must contain at least one square.

And there must be an area not less than three feet wide in every part, from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back or external side thereof, and extending the full length of such side.

And such area, to the extent of at least five feet long and two feet six inches wide, must be in front of the window of such room or cellar, and must be open or covered only with open iron gratings.

And there must be made for every under-ground room a fire-place, at least three feet high, and at least two feet six inches wide, with proper flue therefrom.

And there must be a window-opening at least four feet high, and at least three feet wide in the clear of the reveals; which window-opening must be fitted with a frame filled in with glazed sashes, of which at least one-half must be made to open for ventilation.

Attic Rooms.

And with regard to rooms in the roof of any building hereafter built or rebuilt, in reference to the number of floors of rooms in the roof, and to the height of such rooms;—There must not be more than one floor of such rooms, and such rooms must not be of a less height than seven feet, except the sloping part, if any, of such roof, which sloping part must not begin at less than three feet six inches above the floor, nor extend more than three feet six inches on the ceiling of such room.

Rooms in other Parts.

And with regard to rooms in other parts of the building, in reference to the height thereof,—Every room used or intended to be used as a separate dwelling must be of at least the height of seven feet from the floor to the ceiling.

SCHEDULE (L.)—(*see* §. 72.)

LIST of FEES payable to SURVEYORS under this Act.

Fees for New Buildings.

FOR any building erected on old or new foundations, the Surveyor is to be paid within one month after the roof has been covered in and the carcase finished, as follows:—

	Dwelling-House Class.	Warehouse Class.	Public Buildings Class.
	£. s. d.	£. s. d.	£. s. d.
If the building be of the lowest, or 1st, rate -	1 10 –	1 10 –	1 10 –
Ditto - - - - 2d rate - -	2 2 –	2 2 –	2 2 –
Ditto - - - - 3d ditto - -	2 10 –	2 10 –	2 10 –
Ditto - - - - 4th ditto - -	3 3 –	3 3 –	3 3 –
Ditto - - - - 5th ditto - -	3 10 –	3 10 –	3 10 –
Ditto - - - - 6th ditto - -	5 5 –	5 5 –	5 5 –
AND for inspecting and reporting to the Official Referees on party-walls - - - - -	- - fees similar to the above.		
For every insulated building - - - -	1 1 –	1 1 –	1 1 –
For every detached building built for the purposes of trade or collection of toll - - - - - - - - - - - - - -	10*s.* 6*d.*		

SCHEDULE (L.)—*continued.*

For every attached or detached building, distinctly rated (except such building built at the same time as the building to which they are attached, and carried up and covered in, within twenty-one days after such building shall have been covered in, within the meaning of this Act), such fee as is hereby imposed in respect of buildings of the same rate.

Fee for Additions or Alterations or Repairs.

For every addition, alteration or repair made to any building, which shall involve the execution of works subject to the regulations of this Act, the following fees; that is to say,—

	£.	s.	d.
If the building be of the 1st, or lowest, rate - - -	–	10	–
Ditto - - - 2d rate - - - - -	–	15	–
Ditto - - - 3d ditto - - - - -	1	5	–
Ditto - - - 4th ditto - - - - -	1	10	–
Ditto - - - 5th ditto - - - - -	1	15	–
Ditto - - - 6th ditto - - - - -	2	10	–

Fees for special Duties.

For the following special duties performed by any Surveyor, according to the enactments of this Act; that is to say,—

	£.	s.	d.
For attending to the cutting away of chimney-breasts for external walls—			
If the building be of the 1st, or lowest, rate - - -	1	1	–
Ditto - - - - 2d rate - - - -	2	2	–
Ditto - - - - 3d ditto - - - -			
Ditto - - - - 4th ditto - - - -			
Ditto - - - - 5th ditto - - - -			
Ditto - - - - 6th ditto - - - -	3	3	–
For condemning party fence walls - - - - -	1	1	–
For the inspection and removal of projections, &c. in imminent danger, and ruinous buildings - - - -	–	10	–
For surveying party-walls not kept in repair, and consenting to notice of repair being served - - - - -	–	10	–
For inspecting arches or stone floors over public ways - -	–	10	–
For measuring widths of streets, &c. - - - - -	–	10	–
For inspecting formation of openings in party-walls - -	–	10	–
For inspecting drains and cesspools - - - - -	–	10	–
For inspecting chimney-shafts, pots, funnels, &c., above *certain* heights - - - - - - - - - -	–	10	–

Fees for special Services not expressly provided for.

For any service performed by any Surveyor which is required by this Act, but not comprehended under any of the foregoing heads,—

Such fee as the Official Referees shall by writing under their hands order and appoint, with the consent of the Commissioners of works and buildings.

SCHEDULE (M.)

Metropolitan Buildings Act.

SUMMARY of PROCEEDINGS to be taken or observed before and after NOTICES in relation to Buildings.

Section of the Act.	Stages of Proceeding.	Steps to be taken.	By whom taken.	With reference to whom taken.	Form of Notice to be given.	Place of Notice.	Subsequent Proceedings.
	WORKS GENERALLY.						
§. 13.	Before commencing the operations specified in this section.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 1. -	At the District Surveyor's office	£. 20 penalty for neglect. Existing buildings altered, &c. without notice, to be abated as a nuisance.
§. 13.	Before resuming operations, after being suspended for a period exceeding three months.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 2. -	At the District Surveyor's office	£. 20 penalty for neglect.
§. 13.	On change of Architect, Master Builder, or other Superintendent.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 3. -	At the District Surveyor's office	£. 20 penalty for neglect.
§. 14.	On the occurrence of any irregularity in building operations.	48 hours' notice to be given -	By the District Surveyor -	To the Builder - - -	*See* Form No. 4. -	At the Builder's office - -	Proceedings by Surveyor or Official Referees.
§. 36.	As to openings hereafter made in external walls abutting on adjoining ground or buildings.	Notice to stop up within one month.	By adjoining Owner - -	To Owner of external wall -	*See* Form No. 5. -	According to §. 101, &c. -	To be stopped up.
	SPECIAL SUPERVISION.						
§. 15.	On completion of the carcass of a building subject to special supervision.	Notice for inspection thereof -	By the Architect or Builder -	To the Official Referees -	*See* Form No. 6. -	At the Official Referees' office	Survey and approval, or disapproval by Official Referees. Prohibition of use of irregular buildings of this class, and penalty of £. 5 to £. 500 per day.
§. 15.	On completion of amendments, or the entire completion of a building, subject to special supervision.	Notice relative thereto - -	By the Architect or Builder -	To the Official Referees -	*See* Form No. 7. -	At the Official Referees' office	Survey and certificate.
	PARTY-WALLS, &c.						
§. 20, 21, 23, 24, 25.	Before survey, repair or pulling down of a party-wall, party-arch, or party-fence-wall.	One Month before survey, and six months' notice before operations.	By the Building Owner. *See Definition*, §. 13.	To the adjoining Owner -	*See* Form No. 8. -	According to §. 101, &c. -	Inspection by Surveyor. §. 23.
§. 20.	In the same case - - - -	Notice for survey - - -	By the Building Owner. *See Definition*, §. 13.	To the District Surveyor and Official Referees.	*See* Form No. 9. -	At the District Surveyor's and the Official Referees' offices.	Inspection by Surveyor, and report to Official Referees.
,,	In the same case - - - -	Appointment of survey - -	By the District Surveyor -	To the Owners and Agents, &c.	*See* Form No. 10. -	To Building and adjoining Owners and Agents.	Inspection by Surveyor, and report to Official Referees.
§. 32, 33.	As to pulling down rooms in intermixed property, and repairing or rebuilding party-fence-walls.	Notice of intention to build a party-wall, or as directed by Official Referees.	By the Building Owner -	To the adjoining Owner and District Surveyor. §. 20.	*See* Form No. 11. -	According to §. 101, &c. -	Erection of wall.
,,	In the same case - - - -	Notice for inspection thereof -	By the Building Owner -	To the District Surveyor and the Official Referees.	*See* Form No. 12. -	At the District Surveyor's and Official Referees' office.	Inspection by Surveyor, and report to Official Referees.
,,	In the same case - - - -	Appointment of survey - -	By the District Surveyor -	To the Owners and Agents, &c.	*See* Form No. 13. -	To Building and adjoining Owners and Agents.	Inspection by Surveyor, and report to Official Referees.
,,	As to pulling down a timber partition, and erecting or raising a party-wall.	Six months' notice of intention to build or raise a party-wall.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 14. -	According to §. 101, &c. -	Erection of wall, or raising of wall.
§. 27.	Excavation against existing party-wall for a deeper story, and for the erection of an external wall.	One month's notice of intention to cut away footings or breast or shaft of a party-wall.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 15. -	According to §. 101, &c. -	Execution of operations.
§. 37.	Building a party-wall on line of junction of two pieces of vacant ground.	One month's notice for consent of adjoining Owner.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 16. -	According to §. 101, &c. -	Execution of operations.
§. 37.	In the same case - - - -	Notice of consent - -	By the adjoining Owner -	To the Building Owner -	*See* Form No. 17. -	According to §. 101, &c. -	Erection of wall.
	MODIFICATIONS.						
§. 22.	Modification of intended work to suit adjoining owner.	Seven days' notice for consent	By the adjoining Owner -	To the Building Owner -	*See* Form No. 18. -	According to §. 101, &c. -	If consent not given, commencement of works must be delayed for decision of Official Referees.
,,	In the same case - - - -	Application for decision -	By the adjoining Owner -	To the Official Referees -	*See* Form No. 19. -	At the Official Referees' office -	Delay in commencing of operations.
,,	In the same case - - - -	Notice of application - -	By the adjoining Owner -	To the Building Owner -	*See* Form No. 20. -	According to §. 101, &c. -	,, ,,

SCHEDULE (M.)

FORMS OF NOTICES AS TO WORKS.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

1.—*NOTICE by the Builder to the District Surveyor, Two Days before commencing Operations.*

I DO hereby give you notice, That I intend to (1) and that C. D., of is to be the (2) of the works to be executed; and that the said works will be begun on the day of

Dated this day of

(Signature.)

*** Certain Penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

2.—*NOTICE by the Builder to the District Surveyor, Two Days before resuming Operations.*

I DO hereby give you notice, That I intend to re-commence the (3) and that C. D. of is to be the (2) of the works to be resumed; and that the said works will be continued on the day of

Dated this day of

(Signature.)

*** Certain Penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

3.—*NOTICE by the Builder to the District Surveyor, as to Change of Builder.*

I DO hereby give you notice, That, with reference to the works specified in my Notice of last E. F. (2) is to be placed in charge of the said works, instead of C. D. the (2) mentioned in the said Notice.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. s. 14, 1844.

4.—*NOTICE by the District Surveyor to the Builder, as to any thing done in the Erection of any Building not conformably to the Act.*

I DO hereby give you notice, That the (4) now in progress (5) situate in (6) is not conformable to the statute in the portions thereof under mentioned; and I require you within Forty-eight hours from the date hereof to amend the same.

Dated this day of at the hour of by the clock.

Note.—Irregularities referred to.

(Signature.)

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(1) *Describing the erection or intended operation in general terms, and whether it relate to any of the following matters:—*
"The erection of any building;"
or, "The making of any addition to or alteration in any building;"
or, "The building, pulling down, re-building, cutting into or altering any party-wall, external wall, chimney-stack or flue;"
or, The making of "any opening in any party-wall."
or, The doing of "any other matter or thing by this Act placed under the supervision of the Surveyor."

(2) *Insert* "Architect," *or* "Builder," *or other Superintendent to have charge of the works.*

(3) *Describing in general terms the works referred to in notice No.* 1, *and which works may have been suspended three months.*

(4) *Insert* "building," *or* "alterations," *or* "building operations," *as the case may be.*

(5) *Insert* "under your superintendence" *or* "in the building belonging to you," *as the case may be.*

(6) *Insert the situation, as the case may be.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. s. 36, 1844.

5.—*NOTICE by an Owner or Occupier to an adjoining Owner or Occupier, to stop up an Opening in an External Wall abutting on his Premises.*

I DO hereby give you notice, That if within One month from the date hereof you do not stop up the opening made in the external wall of your premises situate in (1) and which abuts on my (2) I shall, at your expense, cause the same to be stopped up, conformably to the statute.

Dated this day of

(Signature.)

FORMS OF NOTICES AS TO SPECIAL SUPERVISION.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 15, 1844.

6.—*NOTICE by an Architect or Builder to the Official Referees, as to Completion of the Carcass of a Building subject to special Supervision.*

I DO hereby give you notice, That the Building now erecting under my superintendence in (1) being a building of the (3) and having been completed to the full height of the walls thereof, and the timbers, floors, roofs and partitions being fixed, I require you, in accordance with the statute, should you be of opinion that the building is subject to special supervision, to survey the same, and to certify accordingly.

Dated this day of

(Signature.)

[*** Penalties, varying from £.5 to £.500 per day, attach to the use of any such building without its being certified subsequent to notice as above and following.]

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 15, 1844.

7.—*NOTICE by an Architect or Builder to the Official Referees, as to Completion of Amendments, and of Buildings subject to special Supervision.*

I DO hereby give you notice, That the building now erecting under my superintendence in (1) being a building of the (3) and having been cempleted in pursuance of your survey and notice subsequent, I require you, in accordance with the statute, to survey the same, and to certify accordingly.

Dated this day of

(Signature.)

[*** This Notice will be used both with reference to the completion of amendments and to the entire completion of a building.]

FORMS OF NOTICES AS TO PARTY-WALLS, &c.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 20, 21, 23, 24, 25, 1844.

8.—*NOTICE to be given (One Month before Survey, and Six Months before commencing Operations) by an Owner or Occupier, to an adjoining Owner or Occupier, that the Party-wall, or Party-arch, or Party-fence-wall is out of Repair.*

I DO hereby give you notice, That I apprehend that the (4), or some part thereof, on the line of junction between my (5) situate, &c., and the (5) thereto adjoining, situate on the side thereof, is so far out of repair (6) as to render it necessary to (7) such wall or some part thereof; and that I intend to have such wall surveyed, pursuant to the statute; and also, that I have given notice to the Surveyor of the District and to the Official Referees to survey the premises, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt, and to certify accordingly.

Dated this day of

(Signature.)

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(1) *Specify the situation* (2) *Insert* "ground" *or* "building adjoining."
(3) *Insert* "Sixth rate of First class," *or* "Sixth rate of Second class," *or* "of the Third class," *as the case may be.*
(4) *Insert* "party-wall," *or* "party-arch" *or* "party-fence-wall," *as the case may be.*
(5) *Insert* "house," *or* "building," *or* ground," *as the case may be.*
(6) *Insert when required* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."
(7) *Insert* "repair," *or* "pull down and rebuild," *as the case may be.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 20, 1844.

9.—*NOTICE, in the same Case, to the Surveyor and Official Referees.*

I DO hereby give you notice, That I apprehend that the (1) or some part thereof, on the line of junction between my (2) situate in and the (2) thereto adjoining, situate on the side thereof, is so far out of repair (3) as to render it necessary to repair or pull down and rebuild such wall, or some part thereof; and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more Surveyors or Agents appointed by me, as under mentioned, or by C. D., the owner of the adjoining property, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt; and I do hereby also intimate that I have served a notice on C. D. to the like effect.

Dated this day of

(Signature.)

Names and Addresses of one or more Surveyors or Agents of a Building-Owner.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 20 and 23, 1844.

10.—*NOTICE, in the same Case, by the District Surveyor, to the Building Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, Surveyor of the district, do hereby give you notice, That, in pursuance of an application made to the Official Referees and to me in that behalf, it is my intention to proceed to view the premises (4) situate in for the purpose of certifying the condition of the (1), and whether any part thereof is so far out of repair as to require to be either wholly or in part repaired, or pulled down and rebuilt; and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more Surveyors or Agents on behalf of the building owner and the adjoining owner.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 32, 33, 1844.

11.—*NOTICE to be given, One Month before Survey, and Six Months before commencing Operations, by an Owner to an adjoining Owner.*

I DO hereby give you notice, That I intend to (5) and that I intend to have such (6) surveyed conformably to the statute; and that I have given notice to the District Surveyor and to the Official Referees to survey the premises, and to certify accordingly.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 32, 33, 1844.

12.—*NOTICE in the same Case to the Surveyor and Official Referees.*

I DO hereby give you notice, That I intend to (5) and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more Surveyors or Ageuts appointed by me, as under mentioned, or by C. D., the owner of the adjoining property, for the purpose of certifying whether the whole or any part (7) ought to be pulled down and rebuilt; and I do hereby also intimate that I have served a notice on C. D. to the like effect.

Dated this day of

(Signature.)

Names and Addresses of one or more Surveyors or Agents for Building-Owner.

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(1) *Insert* "party-wall," *or* "party-arch," *or* "party-fence-wall," *as the case may be.*
(2) *Insert* "house," *or* "building," *or* "gound," *as the case may be.*
(3) *Insert, when required,* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."
(4) *Designated by number or other name.*
(5) *Specify the kind of operation, as to whether it be intended—*
"To raise a party-fence-wall;"
or, "To repair or rebuild a party-fence-wall;"
or, "To pull down and rebuild rooms in intermixed property, &c.;"
and specifying the situation, &c.
(6) *Insert* "party-fence wall," *or* "rooms in intermixed property."
(7) *Specify the kind of operation intended.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 32, 33, 1844.

13.—*NOTICE in the same Case by the District Surveyor to the Building Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, Surveyor of the District, do hereby give you notice, That, in pursuance of an application made to the Official Referees and to me in that behalf, it is my intention to proceed to view the premises (1) situate in for the purpose of certifying whether any part of such (2) require to be (3) and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more Surveyors or Agents whom the parties concerned shall appoint for that purpose.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 32, 1844.

14.—*NOTICE to be given Six Months before commencing Operations, by an Owner to an adjoining Owner.*

I DO hereby give you notice, That I intend to (4) pursuant to the Statute.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 27, 1844.

15.—*NOTICE of Intention to build an external Wall against existing Party-wall, and for that purpose to cut away Footings, Breast and Shaft of an existing Party-wall.*

I DO hereby give you notice, That it is my intention, one month after the date hereof, to build an external wall against the existing party-wall by which our premises are parted, situate , and to cut away such portion of the footings or chimney breast or shaft in such party-wall as will be necessary for that purpose.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 37, 1844.

16.—*NOTICE of Desire to build a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I desire to build partly on my land or ground adjoining your vacant ground, and partly on your vacant ground, on the line of junction of the said premises, (5) which will be of the under-noted thicknesses and dimensions; and should you consent thereto, I require you to signify such consent in writing on or before the day of next.

Dated this day of

(Signature.)

Note of the Thickness and Dimensions.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 37, 1844.

17.—*NOTICE of Consent to the building of a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I consent to the building of a (5) partly on my land or ground adjoining your vacant ground, on the line of junction of the said premises, which I require to be of the under-mentioned thicknesses and dimensions, and other particulars.

Dated this day of

(Signature.)

Note of the Thickness and Dimensions, and other Particulars.

METROPOLITAN

(1) *Designated by number or other name.* (2) *Specify the kind of operation intended.*
(3) *Insert* "raised," *or* "repaired," *or* "pulled down and rebuilt," *as the case may be.*
(4) *Specify the kind of operation, as to whether it be intended—*
"To pull down a timber partition, and instead thereof to build a party-wall," *where no survey is required.*
or "To raise a party-wall."
(5) *Insert* "party-wall", *or* "party-fence-wall" *or* "external wall," *as the case may be.*

SCHEDULE (M.)—*continued.*

FORMS OF NOTICES AS TO MODIFICATION OF INTENDED BUILDING OPERATIONS.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 22, 1844.

18.—*REQUISITION to a Building Owner by an adjoining Owner as to Modification of intended Work on his behalf.*

I DO hereby give you notice, That I require you to (1) the works specified in your notice of the day of in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by you; and if you do not consent hereto, or dissent therefrom, within days, then, in pursuance of the statute, you are hereby required to delay your intended operations until the Official Referees shall have determined thereon.

Dated this day of

(Signature.)

Note of Modifications.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 22, 1844.

19.—*NOTICE by an adjoining Owner to the Official Referees as to the Modification of intended Works of a Building Owner.*

I DO hereby give you notice, That C. D., of having specified in his notice of the day of certain works to be executed subsequent to the day of next; and I having served upon him a requisition in reference to the (2) of the works so intended by him, in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by him, and he not having attended thereto; it is my desire that a survey be made in pursuance of the statute, with reference to such works, and the notices referred to.

Dated this day of (3)

(Signature.)

Note of Modifications.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 22, 1844.

20.—*NOTICE by an adjoining Owner to a Building Owner as to Application to the Official Referees for Survey of intended Works with reference to the Modification or Delay thereof.*

I DO hereby give you notice, That, in consequence of your not consenting to the (4) of the works intended by you, as specified in my requisition of the day of last, I have applied to the Official Referees for a survey of the premises, pursuant to the statute.

Dated this day of (5)

(Signature.)

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(1) *Insert* "modify as under-noted," *or* "delay until the day of ," *as the case may be.*
(2) *Insert* "modification as under-noted," *or* "delay until the day of ," *as the case may be.*
(3) *Within seven days after the previous requisition.*
(4) *Insert* "modification" *or* "delay," *as the case may be.*
(5) *Within seven days after the previous requisition.*

METROPOLITAN BUILDINGS BILL.

Contents of the Bill,

And indicating in Italics the parts of the Bill altered in Committee.

SECTION.

I.—*For better regulating the Buildings of the Metropolitan Districts.*

The Preamble states the necessity for extending the limits of the existing Statutes, and for the amendment of the Law; the improvement of the Drainage; the securing a sufficient Width of Streets, &c.; the prevention of the improper use of Buildings; the regulation of explosive Works; the regulation of deleterious Works; and the ensuring an uniformity in the execution of the Act by the superintendence thereof.

General Provisions.

1.—The Act to come into operation as to Buildings, Streets and other matters, on 1st of January 1845, and as to Districts and Officers, on 1st September next; existing Statutes set forth in Schedule to be repealed from 1st January.

2.—Relates to the construction of certain terms and expressions.

3.—Defines the Localities in which the Act is to operate.

4.—Empowers the Queen in Council to extend the local Limits of the Act within 12 Miles from Charing Cross.

Regulation of Buildings old and new.

5.—All Buildings hereafter to be built (except those set forth in the Schedule for special supervision and Sewers), and all rebuilding, enlarging and altering of existing Buildings, to be subject to the rules and directions set forth in the Schedules annexed to the Act; with power to the Official Referees to determine all matters of doubt or difference.

6.—All first rate Buildings of the second class (*the first class being left out*), and Public Buildings of the third class to be subject to the special supervision of the Official Referees, as well as the ordinary supervision of the Surveyor; and matters of difference to be determined by the Official Referees, or on appeal by the Commissioners of Her Majesty's Works and Buildings.

7.—All exempted Buildings, specified in Schedule (B.) to be under the special supervision of the Official Referees, according to the Act.

8.—Proviso, as to Buildings not coming within any class or rate, being subject to directions of Surveyor and Official Referees.

9.—Proviso, as to Building Contracts being fulfilled in conformity with the requirements of this Act, and any differences as to expense to be decided by the Surveyor, or on appeal by the Official Referees.

10.—Proviso, as to Building Leases being fulfilled as if made under this Act; *and the Official Referees to determine the loss occasioned thereby, and to award compensation.*

11.—Commissioners of Works and Buildings empowered to modify Rules generally, on report by the Official Referees, or on representation by the parties interested. [*The special direction as to costs struck out.*]

12.—Further power given to Official Referees and said Commissioners to consent to modification of Rules, as to re-building existing buildings on same site.

Builders.

13.—Two days' notice of certain operations to be given to Surveyors, subject to a penalty of £. 20 for neglect, or not renewing notice, or not notifying change of Builder; or if building begun without notice, or inspection denied, such building to be deemed a nuisance.

Buildings Generally.

14.—The Surveyor to give 48 hours' notice to Builders and others, as to irregularities in works, and if necessary to cut into the works; and if amendment be not made within 48 hours, to inform the Official Referees, who are to proceed according to circumstances.

15.—Provides for the special supervision of buildings of the first rate of the second class, and of buildings of the third class (*omitting first class buildings*); and if such buildings be used before being certified, the owner or occupier subject to a penalty of £. 500 per day; *but the Justices to consider the circumstances of such use.*

16.—Provides for the special supervision of exempted buildings, and that the use of such buildings shall incur a penalty of £. 100 per day, *but the Justices to consider the circumstances of such use.*

17.—Empowers the Surveyor and Official Referees to enter upon premises where operations have been commenced, for the purpose of inspecting the same during working hours, and parties refusing entry to be liable to a penalty of £. 20, and forcible entry may be made.

18.—All buildings not according to the Act to be deemed a nuisance, and proceedings to be taken by the Surveyor for the removal thereof.

19.—Workmen and others offending against the rules and directions of the Act, to forfeit 50*s.*, or be imprisoned One Month.

SECTION.

Party Walls, Party Fences and Intermixed Buildings.

20.—Specifies what works may be executed on adjoining properties by "building owners" and "adjoining owners" respectively.

21.—If the building owner do not obtain the consent of, he must give notice to the adjoining owner One Month before survey, and Four [*instead of Six*] Months before commencing the work.

22.—*If the adjoining owner desire the modification of the work to render it suitable to his premises, notice thereof to be given or application made to Official Referees.*

23.—Delay of work for convenience of adjoining owner to be obtained in like manner.

24.—Notice as to works to be executed under certain circumstances, where consent cannot be obtained, to be given to the Surveyor and Official Referees, and proceedings thereon by the Surveyor.

25.—Provides for the reparation and rebuilding of defective party structures at joint expense.

26.—Party-walls may be rebuilt at the expense of the building owner on Four [*instead of Six*] Months' notice.

27.—A building owner rebuilding of a higher rate, without pulling down the existing party-wall, to erect an external wall against such party-wall.

28.—Damage arising from the erection of such external wall to be made good by the building owner; and footings in chimneys may be cut into, after One Month's notice, but must be again made good.

29.—Proviso, that if the damage appear to the adjoining owner or occupier to render the wall ruinous or dangerous, the Surveyor or Official Referees to survey and determine as to the rebuilding of the wall, at the expense of the building owner.

30.—Provides for the rebuilding of sound party-walls under certain circumstances.

31.—Provides for the raising of future and existing buildings and chimneys, and the use of any raised building by the adjoining owner.

32.—Party fence-walls to be repaired, or rebuilt and raised, on giving *Ten Days' notice;* or rebuilt as a party-wall, on payment of all expenses, and for the damage to adjoining premises. *Proviso as to reimbursement of expense if afterwards used, and as to application to Official Referees for the erection of a screen wall.*

33.—On rebuilding or pulling down One-fourth of the front or one story of a building, the building owner to pull down timber petitions, on giving notice.

34.—Intermixed buildings to be pulled down in certain cases, subject to the directions of the Official Referees.

35.—The division walls of the chambers of the Inns of Court adjoining staircases to be deemed party-walls.

36.—Building owner empowered to enter adjoining premises to execute works duly authorized, and remove goods, &c.; if hindered, to break open the premises; and party obstructing liable to penalty of Ten Pounds.

37.—Openings in external walls abutting on other premises, if made without consent, to be stopped within One Month, at the expense of the party making such openings, subject to the award of the Official Referees in case of dispute, and to recovery if not paid.

38.—Party-walls to be built next vacant ground, to be notified One Month to the adjoining owner, to enable him to consent; and if such be withheld, an external wall and fence-wall to be erected entirely on builder's ground, *except as to footings.*

39.—Chimney-breasts, &c., in a new party-wall to be built for the adjoining owner at his expense, if instructions given in due time.

Ruinous Buildings.

40.—The repairing and rebuilding of ruinous buildings to be effected by the Lord Mayor and Aldermen, or Overseers, as directed by the Official Referees on certificate of the Surveyor.

41.—The materials to be sold to pay the costs; surplus to be paid to owner of the building, *and any dispute to be referred to Official Referees*; if no demand, surplus to be paid to city of London, or added to Poor-rates of other places, and to be refunded within Six Years.

42.—If a deficiency of funds, the balance to be paid by owner or occupier, or levied by distress on owner or occupier, and occupier to deduct from rent.

43.—Ruinous chimnies, roofs and projections to be repaired by occupier within Thirty-six Hours after notice by Surveyor, or to be taken down or secured as a Justice may direct, subject to penalty of 5 *l.*, and expenses to be recovered from owner or occupier, the latter, if not liable, being reimbursed out of rent.

44.—Damage caused by the falling of any ruinous chimney, &c., to be compensated by the owner of the buildings from which it fell.

45.—All powers and authorities of the Mayor and Aldermen of the city of London to be exercised by the Court of Mayor and Aldermen.

Expenses of Works.

46.—Provides for the reimbursement of expenses of works in certain cases of adjoining properties; and until such payment the property of the structures to vest in the building owner.

47.—For the recovery of the expenses of buildings, an account to be delivered containing the particulars specified, subject to appeal to, and examination by, the Official Referees, and to be amended if disapproval certified by them. After Ten Days from delivery of certificate of approval, the amount to be recovered by summary proceeding.

48.—Proviso, that any occupier paying such expenses is to deduct the amount out of his rent, if not otherwise provided by agreement.

49.—The

SECTION.

49.—The owner first liable for any such expenses incurred in respect of any building held under lease, &c. heretofore made, to recover the amount from persons liable, and disputes to be referred to Official Referees. Expenses incurred in respect of buildings held under lease, &c. hereafter made to be charged *on the lessor*. Builder entitled to receive rents, on giving notice to the occupier, or to recover proportions to be fixed by the Official Referees. Limitation and continuance of distress specified.

50.—The Official Referees empowered to determine the proportional contributions to be paid by part owners, and expenses to be recovered in terms of the award.

Drainage.

51—*Drains to be made according to Schedule (H.), and the rights and powers of the Commissioners of Sewers saved.*

Streets and Alleys.

52.—Width thereof to be secured according to the rules in Schedule (I.)

Use of Buildings.

53.—Restrains the use and occupation of rooms or cellars in buildings of the dwelling-house class (except as ware-rooms or store-rooms), unless made conformably to Schedule (K.) Penalty of 20*s*. per day for using any such room or cellar for any noxious purpose.

54.—Businesses dangerous as to fire not to be nearer other buildings than Fifty Feet. New businesses to be also Forty Feet from public ways; business at less distances prohibited after Twenty Years, and persons offending liable to 50*l*. penalty for erecting buildings, and 50*l*. per day for carrying on business or not removing buildings. Imprisonment for Six Months if penalty not paid.

55.—Businesses dangerous as to health to be made subject to like regulations.

56.—Justices empowered to ascertain the means, used to mitigate the noxiousness of Trades, and to lessen penalty accordingly; also, to suspend execution, if other means of mitigation be adopted.

57.—Appeal to Quarter Sessions allowed as to conviction of Justices in respect of certain Trades not specified.

58.—*Proviso as to Trial by Jury and Proceedings at Quarter Sessions.*

59.—Directing how Appeals to Quarter Sessions are to be tried at Southwark and Greenwich.

60.—Saving remedies at Common Law and by Statute.

61.—Trades deemed nuisances to be removable by purchase, on memorial by two-thirds of neighbouring inhabitants, and order in Council thereon: any such Trades so purchased not to be carried on after Three Months from payment or tender of compensation.

62.—Funds for defraying compensation to be defrayed by a rate, *either partial or general.*

63.—*Exemption of Public Gas-works from the operation of these Provisions.*

Surveyors, their Districts and Duties.

64.—Lord Mayor and Aldermen of London, and Justices in Quarter Sessions for other parts, with consent in both instances of the Home Secretary to appoint, unite, enlarge or alter the Districts of Surveyors.

65.—The like authorities to appoint Surveyors duly qualified.

66.—*Practical qualifications of Surveyors to be ascertained on examination by the Official Referees, President and Vice-Presidents of the Royal Institute of British Architects, and President and Vice-Presidents of the Institution of Civil Engineers, their Certificate be produced by all Candidate Surveyors one week before Election.*

67.—Surveyors to hold office only during pleasure.

68.—Their functions specified generally.

69.—Surveyors must be aged thirty years, and not to act as a Justice of Peace of the county wherein district situate.

70.—Present Surveyors continued in office subject to provisions as to powers and remuneration.

71.—Surveyors hereafter appointed to make declaration of official fidelity, *subject to a penalty of 5l. for acting before declaring.*

72.—Regulations as to duties and offices.

73.—Surveyors pro tempore to be appointed in cases of illness, &c., and to receive the Fees.

74.—Vacancies to be supplied by Lord Mayor and Aldermen, and by the Justices; and other Surveyors to perform occasional duties.

75.—The Official Referees to report to Lord Mayor, Aldermen, and Justices; when the district of any Surveyor appears too large, and as to the appointment of assistant Surveyors, who are to be subject to the like rules.

76.—No Surveyor to survey any building which has been under his professional superintendence.

77.—Fees of Surveyors to be paid *by Builder, Owner or Occupier* within certain times of the erection of works, and upon delivery of account and receipt, and only for work done according to Act.

78.—Monthly Returns of Works under supervision, to be made by Surveyors to Registrar of Metropolitan Buildings.

79.—Any extortion, negligence, or unfaithfulness by any Surveyor in the performance of his duties, to render him liable to penalty of £.50, or to discharge and incapacitation.

Official Referees.

80.—To be Architects or Surveyors, and appointed by the Home Secretary, during pleasure; *but no Referee to do any business as a Surveyor.*

81.—To superintend the execution of the Act by the District Surveyors, and perform the other matters assigned to them

82.—Matters of reference specified, and one Referee may act.

83.—To

SECTION.

83.—To exercise like powers with Arbitrators, and award to have like effect, as if under an order of Queen's Bench, and to be binding on all persons and bodies.
84.—*Revocation of their authority in any matter not to affect their award.*
85.—*Empowered to take evidence on oath, and require the production of documents.*
86.—Their award to be received as evidence.
87.—To make declaration of official fidelity.
88.—One Official Referee, with the assent of the Registrar, empowered to act, subject to regulation by the Commissioners of Works and Buildings.

Registrar of Metropolitan Buildings.

89.—To be appointed by the Commissioners of Works and Buildings during pleasure. The Commissioners to make rules as to duties. Functions specified generally.
90.—To make declaration of official fidelity.
91.—To have the custody and inspection of the records of the Official Referees.
92.—The office of Registrar to be appointed by the Commissioners of Works and Buildings, and the business thereof.
93.—Directs as to the registration of awards and documents.
94.—The Official Referees and Registrar to have a salary of £.1,000 each.
95.—Their expenses to be defrayed partly out of monies to be received from the County-rate.
96.—Balance of expenses out of Consolidated Fund.
97.—The Fees of Office to be fixed by the Treasury, and applied towards office expenses; the balance going to the Consolidated Fund. *A Table of Fees to be hung up.*

Legal Proceedings.

98.—Informalities in proceedings for any distress not to affect the proceedings; but person aggrieved may bring action on the case for damages.
99.—Tender of amends before action, or compensation paid into Court to prevent proceedings.
100.—Money claimed under awards to be recovered summarily before Justices or a Police Magistrate; and by distress or imprisonment.
101.—Offences to be prosecuted before one Justice or a Police Magistrate on complaint, and they *may compel appearance.* Penalties recoverable by distress or imprisonment.
102.—No appeal allowed (except as to Trades or Businesses offensive or dangerous) by certiorari or otherwise.
103—.*Convictions for Penalties of* 50 *l. and upwards to be subject to appeal to Quarter Sessions within Four Months.*
104.—Actions for Penalties to be brought within Six Months.
105.—Any party to sue or proceed for Penalties for his own benefit, if not otherwise appropriated.
106.—Regulations as to actions against persons acting under the Act.
107.—Plaintiff in any action may be required to give security for costs.
108.—Prosecutions for neglect or evasion of Act limited to Three Months after Penalty, &c. incurred, and notice of action to be given.

Miscellaneous.

109.—Notifications to be served as specified; *any Occupier who is a yearly Tenant or Tenant at will excepted.*
110.—Notice to Occupiers to be given personally, or affixed.
111.—Notice to Owners to be given personally, or left with an inmate.
112.—Notice to Owners by registered letter transmitted by post.
113.—Notice to Surveyors and Official Referees at their offices.
114.—Consents by incapacitated persons to be given by certain legal representatives; *and the Official Referees to consent for such parties as are unknown.*
115.—Certificates and awards of Surveyors and Official Referees exempted from Stamp Duty.
116.—Act to be deemed a Public Act.
117.—Act to be amended or repealed during the Session.

SCHEDULES.

[The Schedules have been considerably amended in numerous details, in accordance with practical suggestions; but chiefly with the view of rendering the rules more effectual and convenient for practice.]

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For better regulating the Buildings of the Metropolitan Districts, and to provide for the Drainage thereof.

[N. B.—*The Clauses marked* (A.) *to* (H.) *were added by the Committee.*]

Preamble.

WHEREAS by the several Acts mentioned in Schedule (A.) to this Act annexed, provisions are made for regulating the construction of Buildings in the Metropolis, and the Neighbourhood thereof, within certain limits therein set forth: BUT FORASMUCH as Buildings have since been extended in nearly continuous lines or streets far beyond such limits, so that they do not now include all the places to which the provisions of such Acts, according to the purposes thereof, ought to apply; and moreover such provisions require Alteration and Amendment; IT IS EXPEDIENT to extend such Limits, and otherwise to amend such Acts:

Extension of Limits, and amendment of Law.

Improvement of Drainage.

AND FORASMUCH as in many parts of the Metropolis and the Neighbourhood thereof the drainage of the Houses is so imperfect as to endanger the health of the Inhabitants, IT IS EXPEDIENT to make provision for facilitating and promoting the Improvement of such Drainage:

Securing a sufficient width of Streets, &c.

AND FORASMUCH as by reason of the narrowness of Streets, Lanes and Alleys, and the want of a thoroughfare in many places, the due ventilation of crowded neighbourhoods is often impeded, and the health of the Inhabitants thereby endangered, and from the close contiguity of the opposite houses, the risk of accident by fire is extended; IT IS EXPEDIENT to make provision with regard to the Streets and other ways of the Metropolis, for securing a sufficient width thereof:

Improper use of Buildings.

AND FORASMUCH as many buildings and parts of buildings unfit for dwellings are used for that purpose, and other buildings fit for

dwellings are improperly used, whereby disease is engendered, fostered and propagated; IT IS EXPEDIENT to discourage and prohibit such use thereof:

Regulation of explosive Works.

AND FORASMUCH as by the carrying on in populous neighbourhoods of certain Works, in which materials of an explosive or inflammable kind are used, the risk of accidents arising from such Works is much increased; IT IS EXPEDIENT to regulate, not only the construction of the Buildings in which such dangerous Works are carried on, but also to provide for the same being carried on in Buildings at safe distances from other Buildings which are used either for habitation or for trade in populous neighbourhoods:

Regulation of deleterious Works.

AND FORASMUCH as by the carrying on of certain Works of a noisome kind, or in which deleterious materials are used, or deleterious products are created, the health and comfort of the Inhabitants are extensively impaired and endangered; IT IS EXPEDIENT to make provis on for the adoption of all such expedients as either have been or shall be devised for carrying on such businesses, so as to render them as little noisome or deleterious as possible to the Inhabitants of the neighbourhood; and if there be no such expedients, or if such expedients be not available in a sufficient degree, then for the carrying on of such noisome and unwholesome businesses at safer distances from other Buildings used for habitation:

Execution of Act, and superintendence thereof.

AND FORASMUCH as great diversity of practice has obtained among the Officers appointed in pursuance of the said Acts to superintend the execution thereof in the several Districts to which such Acts apply, and the means at present provided for determining the numerous matters in question which constantly arise, tend to promote such diversity, to increase the expense, and to retard the operations of persons engaged in building; IT IS EXPEDIENT to make further provision for regulating the office of Surveyor of such several Districts, and to provide for the appointment of Officers to superintend the execution of this Act throughout all the Districts to which it is to apply; and also to determine sundry matters in question incident thereto, as well as to exercise in certain cases, and under certain checks and control, a discretion in the relaxation of the fixed rules, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business:

GENERAL PROVISIONS.

NOW for all the several purposes above mentioned, and for the purpose of consolidating the provisions of the law relating to the construction and the use of Buildings in the Metropolis and its Neighbourhood; BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and

GENERAL PROVISIONS.

1. Operation of Act.

and by the Authority of the same, THAT with regard to this Act generally, so far as relates to the operation thereof in reference to time, it shall come into operation at the following times; (that is to say) as to the Buildings, Streets and other such matters, on the First day of January One thousand eight hundred and Forty-five, and as to the districts and the officers to be appointed in pursuance hereof, on the First day of September next; AND THAT on the said First day of January all the Acts mentioned in the Schedule (A.) hereunto annexed, except so far as in the said Schedule is provided, shall be and are hereby repealed.

Statutes repealed.

2. Construction of words.

AND BE IT DECLARED, with regard to this Act generally, so far as relates to the construction of certain terms and expressions used therein, THAT the following terms and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context, or by the nature of the subject-matter; that is to say,—

Street. The word "Street" to include every square, circus, crescent, street, road, place, row, mews, lane, or place along which carriages can pass, or are intended to pass; and that, whether there be or be not, in addition to the carriage-way, a footway, paved or otherwise:

Alley. The word "Alley" to include any court, alley, passage, or other public place, which can be used as a footway only:

Square. The word "Square," as applied to any area of building, to contain One hundred superficial Feet:

Floor. The word "Floor" to mean the horizontal platform forming the base of any story, and to include the timber or bricks, or any other substance constituting such platform:

Story. The word "Story" to include the full thickness of such floor, as well as the space between the upper surface of one floor and the under surface of the floor next above it; or if there be no floor, then the space between the surface of the ground and the under surface of the floor next above it:

External Wall. The term "external wall" to apply to every outer wall of buildings now built or hereafter to be built, which (excepting the footings thereof on one side) shall stand wholly upon ground of the owner of such buildings, and shall not be used or intended to be used as a party wall under the definition hereinafter contained, whether the same shall adjoin or not to other outer or to party walls:

Party Wall. The term "party wall" to apply to every wall which shall be used, or be built in order to be used, as a separation of two or more buildings with a view to the occupation thereof by different families, or which shall be actually occupied by different families, and also every wall which shall stand upon ground not wholly belonging to the same owner to a greater extent than the projection of its footing on one side:

Already built. The term "already built" used in reference to buildings, to apply to buildings built before the First day of January One thousand eight hundred and Forty-five, or commenced before that day, and covered in and rendered fit for use within Twelve Months thereafter; and used in reference to streets and alleys,

to apply to all streets or alleys made or laid out before that day, and which shall be formed and rendered fit for use within Twelve Months thereafter:

Hereafter to be built. The term "hereafter to be built," used in reference to buildings, to apply to all buildings to be built or commenced after the First day of January One thousand eight hundred and Forty-five, or which, being commenced, shall not be covered in within Twelve Months thereafter; and used in reference to streets and alleys, to apply to all streets or alleys laid out before the said First day of January, or which being laid out shall not be rendered fit for use within Twelve Months thereafter:

Parish. The word "Parish" to include all parochial districts and extra-parochial places in which separate Churchwardens, Overseers, or Constables are appointed, and where two parishes have been united for ecclesiastical purposes, then to include such united parishes.

Owner. The word "Owner" to apply generally to every person in possession or receipt, either of the whole or of any part of the rents or profits of any ground or tenement, or in the occupation of such ground or tenement, other than as a tenant from year to year, or a tenant at will:

Official Referees. The term "Official Referees" to mean the persons appointed in pursuance of this Act to be Official Referees of Metropolitan Buildings:

Surveyor. The word "Surveyor" to apply to all surveyors to be appointed in pursuance of this Act, or whose appointment is confirmed by this Act; and also to all deputy or assistant surveyors to be appointed under this Act:

The Surveyor. The words "the Surveyor," used without any addition, to mean the surveyor in whose district the buildings, street or alley or other subject-matter shall be, or any deputy or assistant surveyor duly acting in his behalf:

Month. The word "Month" to mean a calendar month:

The Commissioners of Works and Buildings. The expression "The Commissioners of Works and Buildings" to mean the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings:

Justice of Peace. The expression "Justice of the Peace" to mean a Justice of the Peace for the county, division, or liberty within which the building or other subject-matter, or any part thereof, is situate; unless it be situate within the City of London or the Liberties thereof, in reference to which any matter or thing elsewhere required or authorized to be done either by one or by two or more Justices of the Peace, may be done either by the Lord Mayor of the City of London, or by any one, two or more Justices of the Peace for the said City; or unless the subject-matter be situate in the district of any Police Court of the Metropolis, in reference to which any matter or thing elsewhere required or authorized to be done by two or more Justices may be done by one Magistrate:

Local Officers. And, generally, whensoever the name of an officer having local jurisdiction in respect of his office is referred to, without mention of the locality to which the jurisdiction extends, such reference is to be understood to indicate the officer having jurisdiction in that place, within which is situate the building

or

or other subject-matter, or any part thereof to which such reference applies:

And, subject as aforesaid to the context, and to the nature of the subject-matter, words importing the singular number are to be understood to apply to a plurality of persons or things; and words importing the masculine gender are to be understood to apply to persons of the feminine gender; and words importing an individual, are to be understood to apply to a corporation or company, or other body of persons.

Singular and plural. Masculine and feminine. Corporate body.

3. Extent of operation of Act in reference to localities.

AND BE IT ENACTED, with regard to this Act generally, so far as relates to the operation thereof in reference to localities, THAT the operation of this Act shall extend to all places within the following limits; (that is to say)

To all such places lying on the North side or left bank of the River Thames as are within the exterior boundaries of the parishes of Fulham, Hammersmith, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford-le-Bow, Bromley, Poplar and Shadwell:

And to such part of the parish of Chelsea as lies North of the said parish of Kensington:

And to all such parts and places lying on the South side or right bank of the said River as are within the exterior boundaries of the parishes of Woolwich, Charlton, Greenwich, Deptford, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting and Wandsworth:

And to all places lying within Two hundred Yards from the exterior boundaries of the district hereby defined.

4. Power to extend the limits of Act.

AND FORASMUCH as, partly by the rapid increase of population in the neighbourhood of the districts to which this Act is to apply, and partly by the tendency of this Act to induce building speculation in such neighbourhoods in order to evade the provisions thereof, the evils which have arisen in the districts not now subject to regulation, will in all probability arise in such neighbourhoods; IT IS EXPEDIENT to make provision for the prevention of such evils; and if they should arise, for the remedy thereof, Now for those purposes, BE IT ENACTED, with regard to this Act generally, so far as relates to the application thereof to other parts and places in the neighbourhood of the districts appointed by this Act, whether such districts immediately adjoin such parts or places or not, THAT IF, from the growing increase of the population or otherwise, it shall appear to Her Majesty in Council to be expedient that the provisions of this Act should be extended to any place within Twelve Miles of Charing-cross, in the City of Westminster, THEN it shall be lawful for Her Majesty in Council to direct, by Order in Council, that at or from a time to be named in such Order, the provisions of this Act shall apply to such places; and, at or from such time, all such provisions of whatever nature, whether penal or otherwise, so far as they shall be capable of application to such places, shall be and are hereby

hereby declared to apply thereto, as if such places were expressly named herein.

5.
Regulation of Buildings.

AND now generally, for the purpose of regulating the building and the rebuilding upon sites of former buildings, and the enlarging and altering of all Buildings, of what nature soever, within the limits aforesaid; BE IT ENACTED, with regard to every such building hereafter to be built (except the buildings comprised in Schedule (B.) hereto annexed, and except sewers made by or under the direction of any Commissioners of Sewers), so far as relates to building the same, and with regard to every such building, either already or hereafter built, (except the said buildings comprised in the said Schedule (B.), and except the said sewers), so far as relates to the rebuilding, and the enlarging or altering the same, and that whether such buildings be built or rebuilt on old or new foundations, or partly on old and partly on new foundations, THAT, notwithstanding any thing contained to the contrary in any Act of Parliament now in force, every such building shall be built, rebuilt, enlarged or altered in reference to the walls, whether external or party-walls, and to the fences, the party fence and the party fence walls, and to the number and height of the stories or rooms therein, and to the chimnies, and to the roofs, and to the timbers, and to the drains, and to the projections, and to any other parts or appendages of every such building, in the manner and of the materials, and in every other respect in conformity with the several particulars, rules and directions which are specified and set forth in the several Schedules (C.), (D.), (E.), (F.), (G.), (H.), (I.), (K.), to this Act annexed, according to the classes of buildings, and the rates of such classes to which such buildings are by the Schedule (C.) declared to belong; subject nevertheless to any other rules and directions in this Act contained in the same behalf; and subject in every case of doubt, difference or dissatisfaction in respect thereof, either between any parties concerned or between any party concerned and the Surveyor of the district, to the determination of the Official Referees, upon a reference of the matter in question, according to the provisions of this Act in that behalf.

Rates of Buildings, and thicknesses of walls and footings, and rules concerning Buildings.

6.
Buildings under supervision of Official Referees.

AND BE IT ENACTED, with regard to all buildings of the first rate of the Second or Warehouse class, and to all buildings of the Third or Public-Building class (except the buildings hereinbefore excepted), so far as relates to the supervision thereof, THAT, subject to the provisions in the Schedule (C.) and elsewhere in this Act made in respect thereof, every such building shall be built under the special supervision of the Official Referees, according to the provisions of this Act in that behalf, as well as under the ordinary supervision of the Surveyor, and if any difference arise as to whether any such building be liable to such special supervision, the same shall be determined by the Official Referees; subject nevertheless to an appeal, at the

the instance of any party interested, to the Commissioners of Works and Buildings, whose decision in the matter shall be final.

7. Special supervision of exempted Buildings.

AND WHEREAS, by several Acts now in force, certain buildings and structures have been exempted from the operation of the Act mentioned in the Schedule (A.), hereto annexed, for the regulation of buildings and party-walls within the cities of London and Westminster, and the liberties thereof, and other the parishes and places therein mentioned; BUT FORASMUCH as provision is hereby made for the supervision of buildings of whatever kind, with a view to the public security, insomuch that the reasons whereon such exemptions were made do not now apply; IT IS EXPEDIENT to repeal such exemptions, and to make provision for such special supervision of such buildings as the nature thereof shall require; NOW FOR THAT PURPOSE, Be it Enacted, with regard to the buildings hereinbefore exempted and comprised in Schedule (B.), so far as relates to the supervision thereof, THAT, notwithstanding any thing contained to the contrary in any Act or Acts now in force, every such building or other structure shall be subject to special supervision by the Official Referees, according to the provisions of this Act in that behalf.

8. Buildings not within Rates.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to any building of whatever kind, which is not hereby expressly assigned to any class or rate of a class, so far as relates to the application of this Act thereto, THAT if any party be desirous of erecting any building which does not come within any one of the said classes, or of any rate of such classes, THEN such building shall be built in accordance to such class and rate as shall be directed by the Surveyor, subject, as in other cases of doubt, difference or dissatisfaction, to an appeal to the Official Referees.

9. Modification of Building Contracts.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to any building of whatever class, so far as relates to the modification of any written contract or agreement now in force for erecting or altering such building, (other than a contract or agreement in the nature of a building lease), THAT it shall not be lawful to execute such contract otherwise than in conformity with the provisions of this Act; but it shall be lawful for either party, and he is hereby entitled to deviate from such contract, so far as any part thereof may remain to be executed after this Act shall have come into operation; and the alterations rendered necessary by this Act shall be performed as if this Act had been in force when such contract was entered into; AND THAT IF the parties thereto shall disagree about the difference of the costs and expenses of the works when performed according to the provisions of this Act, and the works as stipulated for in such contract, THEN, upon

Reference to the Surveyor, or on appeal to the Official Referees.

upon notice being given in writing by one party to the other, it shall be lawful for either party, and he is hereby entitled, to refer the matter to the Surveyor, who shall determine the same, subject to appeal as aforesaid to the Official Referees; and the award of such Official Referees shall be final and binding on all the parties, and in all respects as if such award had formed part of the contract; AND the costs of the reference shall be borne by all, or any, or either of the parties, in such manner and proportion as the Surveyor, or, in case of appeal, as the Official Referees, shall appoint.

10. Modification of Building Leases.

PROVIDED ALSO, AND BE IT ENACTED, with regard to any building of whatever class, so far as relates to the modification of any lease, or agreement for a lease, being of the nature of a building lease, whereby any person may be bound to erect buildings, THAT, notwithstanding anything herein contained, it shall be the duty of such person and he is hereby required to erect every building agreed to be built by such lease or agreement, according to the conditions rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement; AND THAT on the completion of such work, and on giving Fourteen Days' notice of his intention to apply to the Official Referees on this behalf, it shall be lawful for the lessee or tenant, and he is hereby entitled, to require the Official Referees to ascertain what loss, present and prospective, has been occasioned by the observance of the provisions of this Act, and to determine whether he is entitled to any and what compensation, whether by payment of money or reduction of rent, or both, or otherwise; AND THAT, on the receipt of such requisition, and on proof of due notice thereof having been given to the lessor or owner of the building, it shall be the duty of such Official Referees, and they are hereby required, to proceed to ascertain if any and what loss has been so occasioned, and to determine if any and what compensation, as aforesaid, be due in respect thereof, and their decision in the matter shall be final.

Application to Official Referees.

Proceedings thereon.

11. Commissioners of Works and Buildings empowered to modify Rules generally.

AND, FOR THE PURPOSE of preventing the express provisions of this Act from hindering the adoption of improvements, and of providing for the adoption of expedients either better or equally well adapted to accomplish the purposes thereof; BE IT ENACTED, with regard to every building, of whatever class, so far as relates to the modification of any rules hereby prescribed, THAT if, in the opinion of the Official Referees, the rules by this Act imposed shall be inapplicable, or will defeat the objects of this Act, and that by the adoption of any modification of such rules, such objects will be attained either better or as effectually, it shall be the duty of such Official Referees to report their opinion thereon, stating the grounds of such their opinion, to the Commissioners

Report of Official Referees.

missioners of Works and Buildings; AND THAT, IF on the investigation thereof it shall appear to the said Commissioners that such opinion is well founded, THEN it shall be lawful for the said Commissioners or any Two of them to direct that such modification may be made in such rules as will, in their opinion, give effect to the purposes of this Act; AND THAT ALTHOUGH such Official Referees shall be of opinion that such modifications are not requisite or admissible, yet if any party interested present to the Official Referees a representation, setting forth the grounds whereon such modification is claimed, it shall be the duty of the Official Referees, and they are hereby required to report such representation, as well as their opinion thereon, to the said Commissioners, with the grounds of such their report and opinion; AND THAT thereupon, if the said Commissioners think fit, it shall be lawful for them or any Two of them to direct the Official Referees to make such order in the matter as may appear to them to be requisite.

Extent of modification.

Representation by parties.

Order thereupon.

12.

Power to modify provisions of this Act as to existing Buildings, to be rebuilt.

AND BE IT ENACTED, with regard to buildings already built, so far as relates to the rebuilding thereof in conformity with this Act, in respect of the required area, or in any other respect than the required height and thickness of walls, THAT IF a full compliance with the provisions of this Act be attended by extreme loss and inconvenience, THEN, subject to the report of the Official Referees, and to the consent of the Commissioners of Works and Buildings, and to such terms as the said Commissioners may impose in that behalf, it shall be lawful for the parties concerned to rebuild such buildings on the site of the old buildings as near as may be practicable, BUT SO THAT, nevertheless, both the party-walls and the external walls be of the required height and thickness.

13.

BUILDERS.

Works to be executed. Notice to Surveyors.

AND BE IT ENACTED, with regard to the works to be executed in pursuance of this Act, so far as relates to the supervision thereof by the Surveyors, THAT Two Days before the following acts or events; that is to say,—

Before any building shall be begun to be built; and also,

Before any addition or alteration, which by this Act is placed under the supervision of the Surveyor, shall be made to any building; and also,

Before any party-wall, external-wall, chimney-stack or flues shall be begun to be built, pulled down, rebuilt, cut into, or altered; and also,

Before any opening shall be made in any party-wall; and also,

Before any other matter or thing shall be done which by this Act is placed under the supervision of the Surveyor;

It shall be the duty of the builder (by which term is to be understood, both in this provision and elsewhere throughout this Act, the master-builder or other person employed to execute any work, OR IF there be no master-builder or other person so employed, THEN the owner of the

 building,

building, or other person for whom or by whose order such work is to be done), and he is hereby required to give to the Surveyor, at his office, notice in the terms specified in the form (No. 1.) contained in the Schedule of Notices annexed to this Act, or to the like effect;

£. 20 penalty for neglect to give notice, &c.;

AND THAT IF any builder neglect to give such notice, or begin to build, or do any of the things aforesaid, before such notice, or before the expiration of such period of Two Days; THEN, in every such case, the party offending shall, for every such default, forfeit and pay to such Surveyor, Treble the amount of the fees which such Surveyor would have been entitled to receive for his trouble in inspecting the same, and shall also forfeit for every such default a sum not exceeding Twenty Pounds;

£. 20 penalty for not giving fresh notices.

AND THAT IF, for any period exceeding Three Months, any builder having duly begun any building, requiring compliance with the provisions of this Act, suspend the progress of such building, and again go on with the same; OR IF, during the progress thereof, the builder be changed; THEN, Two Days before such builder shall enter upon the performance of the work, it shall be the duty of such builder to give notice to the Surveyor; and such notices must be in the terms specified in the forms (Nos. 2 and 3.) contained in the Schedule of Notices annexed to this Act, or to the like effect; AND must be given to the Surveyor, or left at the Surveyor's office, in like manner as is required upon beginning any new building; AND THAT IF any builder make default or neglect to give or leave such notice, he shall forfeit for every such offence a sum not exceeding Twenty Pounds;

Penalty for beginning without notice;

AND THAT IF any such building, chimney or wall be begun to be built, pulled down, rebuilt, cut into or altered as aforesaid, or be proceeded with after any suspension of the progress thereof before such notice has been given;

or refusal to admit Surveyor.

OR IF such Surveyor or the Official Referees be refused admittance to inspect the same premises, THEN such building or work shall be liable to be abated as a nuisance under the provisions herein contained.

BUILDINGS GENERALLY.

14. Supervision of Works.

Notice of Irregularities to Builders and others.

AND BE IT ENACTED, with regard to such buildings and works, so far as relates to the supervision thereof, THAT IF in building, pulling down, rebuilding, cutting into or altering any part of any building, or party wall or external wall, or chimney-stack or flue, drains, cesspools, or any work or other thing be done contrary to or not conformably with the rules and directions of this Act; THEN forthwith it shall be the duty of the Surveyor and he is hereby required to give Forty-eight Hours' notice, according to the form (No. 4.) in the Schedule of Notices, or to the like effect to the builder, foreman or principal workman on the premises, to amend any such irregularity which he shall deem to have been committed; AND forthwith, after the expiration of such notice, to proceed to inspect the work;

To cut into works.

AND THAT, IF the work be so far advanced that he cannot ascertain whether the irregularity has been committed or not, or exists or not, THEN it shall be lawful for him and he is hereby empowered to order any work to be cut into, laid open or pulled down,

down, which shall in his opinion prevent his ascertaining whether any such irregularity exists or not; AND THAT IF, within Forty-eight Hours, the builder to whom any such notice shall have been given, refuse or fail to amend any irregular work, OR IF any such builder, when ordered by the Surveyor, refuse to cut into, lay open or pull down any work which shall in his opinion prevent his ascertaining whether such irregular work exists or not, THEN, as soon as conveniently shall be, it shall be the duty of the Surveyor to give information thereof to the Official Referees; AND THAT upon the receipt of such information, it shall be the duty of such Official Referees, and they are hereby required to proceed to hear the matter, AND IF any breach of the rules, regulations and directions of this Act be found to have been committed, OR IF there appear good reason to suppose any such breach has been committed and is concealed, THEN it shall be lawful for the Official Referees, and they are hereby authorized to direct by their award that such building, party wall, external wall, chimney-stack, flue or other thing, or such part thereof as they shall deem necessary, shall be amended, removed, cut into, laid open, or pulled down; AND THAT all the costs, charges and expenses of the said work, and of the said application to the Official Referees, shall be borne by such party or parties as the Official Referees shall determine.

Amendment of Works.

Proceeding thereon by Official Referees.

Costs.

15.

AND NOW, FOR THE PURPOSE of making provision for the supervision of buildings of the First Rate of the Second or Warehouse Class, and of all buildings of the Third or Public-Building Class, (except the buildings hereinbefore excepted); BE IT ENACTED, with regard to every such building, so far as relates to the special supervision thereof, THAT when all the walls of any such building shall have been built to their full height, and all the timbers of the floors, roofs and partitions shall have been fixed, it shall be the duty of the architect or builder, and he is hereby required, to give notice thereof to the Official Referees, according to the form (No. 6.) in the Schedule of Notices, or to the like effect; AND IF the Official Referees be of opinion that such building is subject to the special supervision herein provided, THEN within Seven Days after such notice it shall be their duty to survey the said building; AND THAT, IF they approve of the same, THEN within Seven Days after such survey, to certify such approval under their hands to the architect or builder; OR THAT IF any part of the walls, timbers, roof or internal supports appear to such Official Referees defective, insufficient or insecure, THEN, within the said Seven Days after such survey, they are hereby required to give to such architect or builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; AND THAT, upon the receipt of such notice, it shall be the duty of the said architect or builder, and he is hereby required to amend and

Special supervision of First Rate Buildings of Second Class, and of Buildings of Third Class.

Penalty.

Notice to Official Referees.

Survey.

Approval.

Disapproval.

Amendment of defects.

BUILDINGS GENERALLY.

strengthen such defective, insufficient or insecure parts; AND THAT, until the Official Referees shall be satisfied, and shall have certified in writing their approval as aforesaid, it shall not be lawful to cover up any such parts; AND THAT, upon completion of every such building, it shall be the duty of the architect or builder to give fresh notice to the Official Referees, according to the form (No. 7.) in the Schedule of Notices, or to the like effect; AND THAT, thereupon, or within Seven Days after such notice, it shall be the duty of the Official Referees to survey the same; AND THAT, IF upon such survey it shall appear that such building has been built sufficiently strong, and is sufficiently set to be safe, THEN within Fourteen Days thereafter it shall be their duty and they are hereby required to certify accordingly, which certificate must be under their hands and the seal of office of Registrar of Metropolitan Buildings; AND THAT, until such certificate shall have been made, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the Official Referees under their hands and the seal of office of the Registrar of Metropolitan Buildings; AND THAT, IF before the certificate of satisfaction shall have been made, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, THEN, on conviction thereof before Two Justices of the Peace, the owner or occupier of such building, or other the person by whom such building shall be so used, shall forfeit for such offence a sum not exceeding Five hundred Pounds, for every day during which such building shall be so used, without having obtained such certificate of satisfaction, or such express authority as aforesaid; AND THAT, in determining the amount of any such penalty, it shall be the duty of the Justices, and they are hereby directed to have regard to the nature and extent of danger involved in the use of such building, and to the amount of profit which might be derived from such use thereof; AND THAT one-half of such penalty shall go to the person giving information, and the other half to the poor of the parish in which such building shall be situate.

Notice of completion.

New survey.

Certificate.

Prohibition of use.

Penalty.

Justices to consider circumstances.

Appropriation of Penalty.

16. Special supervision of Buildings in Schedule (B.)

AND BE IT ENACTED, with regard to the Buildings comprised in Schedule (B.) to this Act annexed, so far as relates to the supervision thereof, THAT before the Builder begin to build the same, it shall be the duty of the Architect or the Builder and he is hereby required to give notice thereof to the Official Referees, and also, at the same time, to transmit for their inspection the plans, elevations and other drawings which have been made for the same; AND THAT forthwith thereupon it shall be the duty of the Official Referees and they are hereby required to proceed to survey the situation of the intended building, with a view to ascertain whether such building can be erected on such situation with due regard to the security of the public; AND THAT from time to time, during the progress of such building, it shall be the duty of such Official Referees and they are hereby directed to inspect

Survey by Official Referees.

Occasional inspection.

inspect the same with a view to ascertain the sufficiency thereof; AND THAT IF such building or any part thereof appear to such Official Referees defective, insufficient or insecure, THEN they are hereby required to give to such Architect or Builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; AND THAT, upon the receipt of such notice, it shall be the duty of the said Architect or Builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts; AND THAT, until the Official Referees shall be satisfied, and shall have certified in writing their approval as aforesaid, it shall not be lawful to cover up any such parts; AND THAT, upon completion of every such Building, it shall be the duty of the Architect or Builder to give fresh notice to the Official Referees; AND THAT thereupon, or within Seven Days after such notice, it shall be the duty of the Official Referees to survey the same; AND THAT IF upon such survey it shall appear that such building has been built sufficiently strong, THEN it shall be their duty to certify accordingly, which certificate must be under their hands and the seal of office of Registrar of Metropolitan Buildings; AND THAT, until such certificate shall have been made, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the Official Referees, under their hands and the seal of office of the Registrar of Metropolitan Buildings; AND THAT IF, before the certificate of satisfaction shall have been made, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, THEN, on conviction thereof before Two Justices of the Peace, the owner or occupier of such building, or other the person by whom such building shall be so used, shall forfeit for such offence a sum not exceeding One hundred Pounds, for every day during which such building shall be so used without having obtained such certificate of satisfaction, or such express authority as aforesaid; AND THAT, in determining the amount of any such penalty, it shall be the duty of the Justices, and they are hereby directed to have regard to the nature and extent of danger involved in the use of such building, and to the amount of profit which might be derived from such use thereof; AND THAT one-half of such penalty shall go to the person giving information, and the other half to the poor of the parish in which such building shall be situate.

Notice of deficiencies.

Amendment of defects.

Approval by Official Referees.

Notice of completion.

New survey.

Certificate.

Prohibition of use.

Penalty.

Justices to consider circumstances.

Appropriation of penalty.

17. Entry on Premises.

AND BE IT ENACTED, with regard to buildings and works, so far as relates to the entry thereon for the supervision thereof, THAT, at all times during the progress of any operations in respect thereof within the meaning of this Act, it shall be lawful for the Surveyor, and for the Official Referees, and they are hereby respectively authorized to enter upon the premises upon which such operations have been commenced; AND THAT IF at any time whilst any building is in course of construction, demolition, alteration or re-construction, any

Refusal to permit inspection.

BUILDINGS GENERALLY.

any person refuse to admit the Surveyor, or the Official Referees authorized under this Act, during the customary working hours, to inspect such building, or any person refuse or neglect to afford such Surveyor or Official Referee every assistance which may be reasonably required in and about such inspection, THEN in every such case, on conviction thereof, the party offending shall forfeit for every such offence a sum not exceeding Twenty Pounds; AND THAT IF at any time during such customary working hours the Surveyor or the Official Referees be refused admittance to make inspection of any work, THEN for that purpose it shall be lawful for such Surveyor or for such Official Referees, and they are hereby empowered, accompanied by a Peace Officer, to enter upon the ground, building and premises where the same shall be.

Forcible Entry.

18.

All buildings not according to this Act declared a nuisance.

AND for the purpose of more effectually enforcing the observance of the provisions of this Act, BE IT ENACTED, with regard to any buildings, drains, timber buildings, chimnies and flues, party-walls, party-fence-walls, external walls and projections, and every other part of every building of every Class, or Rate of any Class, which shall be hereafter built, rebuilt, enlarged or altered within the limits of this Act, contrary to the provisions hereof, so far as relates to the removal thereof, THAT IF the same be not built, rebuilt, enlarged or altered in the manner and of the materials and in every other respect according to, and in conformity with, the several rules and directions which are in this Act particularly specified; AND IF any person build or begin to build, or cause the building or beginning to build, or alter or cause to be altered, or use or cause to be used any part of any ground or building, projection, drain or other thing contrary thereunto; AND IF, in either of such cases, it so appear by the certificate of the Official Referees; THEN the said building, projection, drain or other thing, or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered, or so used, shall be deemed a nuisance; AND THAT thereupon it shall be the duty of the Surveyor, and he is hereby directed to summon the builder before any Two Justices of the Peace;

Summons before Justices.

Compulsory appearance.

AND THAT IF, at the time and place appointed on such summons, such builder fail to appear, THEN it shall be lawful for the said Justices, and they are hereby authorized to issue a warrant under their hands and seals to compel such builder to appear before such Justices or any other Two Justices; AND THAT thereupon it shall be the duty of such builder, as such Justices shall require, and he is hereby required to enter into a recognizance in such sum, as the said Justices shall appoint, for abating and taking down the same within such convenient time as the said Justices shall respectively appoint, or otherwise for amending the same according to such rules and directions as are herein contained, and also for paying the costs, charges and expenses incurred by the Surveyor

Recognizances to pull down and amend.

Surveyor in laying the information and obtaining the conviction, including such compensation for the Surveyor's loss of time as the said Justices shall think fit; AND THAT IF the party so required fail to enter into such recognizance, THEN it shall be lawful for either of such Justices or any Justice, and they are hereby required to commit such builder to the common gaol of the city, county or liberty where the offence shall be committed, there to remain without bail or mainprize until he shall have abated or demolished or otherwise amended such irregular building, or such nuisance shall be abated or demolished by order of such Justices respectively, (which order the said Justices are hereby empowered to make), and until the costs, charges and expenses thereof, and of all operations and proceedings in relation thereto, shall have been paid: AND FURTHER, THAT IF application be made to any Two or more Justices, THEN, thereupon, it shall be their duty, and they are hereby empowered to order the Surveyor or any other person to abate or demolish such nuisance, and to order the persons authorized by them so to abate or demolish the same, to sell and dispose of the materials thereof, and, out of the monies arising by such sale, to pay to themselves, and all persons by them employed for such purpose, the reasonable charges for abating or demolishing such nuisance, and also such costs and expenses as aforesaid, and to pay the surplus monies arising by such sale (if any) to the owner of the building; AND THAT IF the monies arising by such sale be not sufficient to pay such charges, THEN such owner, OR, IF there be no owner, THEN it shall be the duty of the occupier to make good the deficiency; AND IF he fail, THEN he shall be liable to the same remedies for the recovery thereof as are by this Act provided concerning the expense of taking down ruinous buildings, and putting up hoards for the safety of passengers.

Imprisonment.

Removal of buildings declared nuisances.

Expenses.

19. AND BE IT ENACTED, with regard to any building or work, so far as relates to the non-observance of the provisions of this Act in that behalf by workmen and others, THAT IF any workman, labourer, servant or other person employed in any building, or in the alteration, fitting up or decoration of any building, wilfully and without the direction, privity or consent of the person causing such work to be done, do anything in or about such building contrary to the rules and directions of this Act, THEN upon conviction thereof before any Two Justices of the Peace, upon the oath of one or more credible witness or witnesses (which oath the said Justices are hereby empowered and required to administer), every such offender shall be liable to forfeit for every such offence a sum not exceeding Fifty Shillings; AND THAT IF upon or immediately after such conviction, any such forfeiture be not paid, THEN it shall be the duty of any Two Justices of the Peace to whom application shall be made, to commit the offenders by warrant under the hand and seal of such Justices to the common gaol for any term not exceeding One Month, at the discretion of such Justices.

Fifty Shillings penalty on workmen offending.

Imprisonment.

Party Walls. Party Fences. Intermixed Buildings.

20. Execution of works.

AND FORASMUCH as, from time to time, occasion hath arisen and will hereafter arise to execute the following works in relation to adjoining buildings and premises, parted by the same party-wall or party-fence wall, but belonging to different owners, or occupied by different persons, or to buildings intermixed, belonging to different owners, or occupied by different persons; namely,—

The reparation of the party-walls by which such premises shall be parted:

The pulling down and rebuilding of such party-walls:

The raising of such party-walls:

The reparation of party fence-walls:

The rebuilding of such party fence-walls:

The raising of such party fence-walls:

The pulling down of timber partitions which part buildings, the property of different owners, or occupied by different persons, and building in lieu thereof proper party-walls:

The pulling down of buildings built over public ways, or having rooms or stories, the property of different persons, or occupied by different persons, lying intermixed, for the purpose of building proper party walls or party-arches:

And generally the performance of other necessary works incident to the connection of such party-walls or party fence-walls with the premises adjoining: IT IS EXPEDIENT to make provision, as well for facilitating the execution of such works by any such owner desirous to execute the same (who is herein denominated the "building-owner"); as for protecting the interests of the owner of the adjoining premises (who is herein denominated the "adjoining owner"); NOW FOR THAT PURPOSE, BE IT ENACTED, with regard to all premises parted by a party-wall or party fence-wall, or parted by timber partitions, and with regard to all intermixed properties not so parted, so far as relates to the execution of any such works by any owner of any such premises, THAT IF the adjoining owner shall have consented thereto, OR IF, without such consent, the required notice of such work shall have been given by or on the part of the building-owner to such adjoining owner, THEN, subject to such modification as shall be made by virtue of the provision in that behalf; AND subject to the provision for supplying the want of consent of the owners; AND subject moreover to the respective conditions hereby prescribed, with regard to such works respectively, as well as to the payment of the costs of such works, and to the sanction or to the award of the Surveyors or of the Official Referees, as hereby prescribed in reference thereto, it shall be lawful for every such building-owner and he is hereby authorized or required to execute such works.

21. Consent of, or notice to, adjoining owner.

AND BE IT ENACTED, with regard to such works, so far as relates to the notice thereof, THAT unless the adjoining owner consent thereto, it shall not be lawful for the "building-owner" to execute such works, until he have given notice thereof to such "adjoining owner;" AND every such notice, with regard to the pulling down, re-building

rebuilding or repairing of party-walls or party fence-walls, must be given One Month, at the least, before the survey of the work is to be made, and Four Months, at the least, before the work is to be commenced; AND every such notice, with regard to the pulling down and rebuilding intermixed walls and timber partitions, must be given Four Months, at the least, before such work is to be commenced; AND every such notice must be in the form or to the effect of the notice (No. 8.) for that purpose contained in the Schedule of Notices hereunto annexed.

22. Clause (A.) Modification of work to suit adjoining owner.

AND BE IT ENACTED, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises of the adjoining owner or his tenant, THAT IF the adjoining owner, at any time within Two Months after the receipt of the said notice from the building-owner, give notice of his desire that any modification be made in the work so as to render it suitable to his premises, according to the form (No. 18.) in the Schedule of Notices, or to the like effect, THEN, within Seven Days after the receipt of such notice, it shall be the duty of the building-owner, and he is hereby required, to signify his consent to, or dissent from, such modification or delay; AND THAT IF the building-owner do not within such Seven Days signify his consent to such modification, THEN it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building owner not to commence the work until the Official Referees shall have determined thereon; AND THAT IF within Seven Days thereafter application be made in writing to the Official Referees, according to the form (No. 19.) in the Schedule of Notices, or to the like effect, and notice thereof be given to the building-owner, according to the other form (No. 20.), THEN, within Ten Days after such application, it shall be the duty of the Official Referees to signify their decision thereon, and it shall be the duty of the building-owner not to commence the work till the decision of such Official Referees shall have been given; AND THAT IF, within the period of Four Months from the date of the first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, THEN, subject to the provisions of this Act with regard to such works, it shall be lawful for the building-owner, and he is hereby authorized to proceed to execute the same.

Modification of operations.

Application to Official Referees.

Authority to build.

23. Delay of work to suit adjoining owner.

AND BE IT ENACTED, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises or to the convenience of the adjoining owner or his tenant, THAT IF the adjoining owner at any time within Two Months after the receipt of the said notice from the building-owner, give notice of his desire that the work be delayed, so as to cause it to be executed at a more seasonable or a more convenient time in reference to the business, or to the family or domestic arrangements of such adjoining owner or his tenants, according to the form (No. 18.) in the Schedule of Notices, or to the like effect; THEN, within Seven Days after the receipt

of the notice thereof, it shall be the duty of the building-owner, and he is hereby required to signify his consent to, or dissent from, such modification or delay; AND THAT IF the building-owner do not within such Seven Days signify his consent to such modification or delay, THEN it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building-owner to delay the work until the Official Referees shall have determined thereon; AND THAT IF within Seven Days thereafter application be made in writing to the Official Referees, according to the form (No. 19.) in the Schedule of Notices, or to the like effect, and notice thereof be given to the building-owner, according to the other form (No. 20.), THEN within Ten Days after such application it shall be the duty of the Official Referees to signify their decision thereon, and it shall be the duty of the building-owner to delay the same till the decision of such Official Referees shall have been given; AND THAT IF, within the period of Four Months from the date of the first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, THEN, subject to the provisions of this Act with regard to such works, it shall be lawful for the building-owner and he is hereby authorized to proceed to execute the same.

Delay of operations.

Application to Official Referees.

Authority to build.

24. Supplying want of consent of adjoining owners.

AND BE IT ENACTED, with regard to any such works hereby authorized to be done in relation to party-walls, party-arches, party fence-walls, or other such structures, belonging to the owners of adjoining buildings or parting adjoining premises, so far as relates to supplying the want of consent of the adjoining owners, THAT IF the adjoining premises be unoccupied, OR IF the owner thereof cannot be found, OR IF the owner, although found, cannot, by reason of legal disability or otherwise, consent to the work, OR IF the owner will not consent thereto, OR IF differences arise amongst the parties concerned, THEN the notice required to be given in respect of such work must be served both on the Surveyor and on the Official Referees, in addition to such other parties entitled to notice under this Act upon whom such notice can be served, which must be according to the form (No. 9.) in the Schedule of Notices, or to the like effect; AND THAT forthwith, on the receipt of such notice, it shall be the duty of the Surveyor and he is hereby required to give notice to the parties by whom such work is to be executed, and to any one or more Surveyors or other agents by them appointed, as to the day and hour when he will view the premises, according to the form (No. 10.) in the Schedule of Notices, or to the like effect; AND at such time it shall be the duty of the Surveyor of the district and he is hereby authorized to proceed to inspect such premises accordingly, and to certify to the Official Referees,

Notice of Inspection by Surveyor.

First, Whether such work ought to be done or not; and

Secondly, If the same ought to be done, whether it ought to be done in the proposed manner; and

Thirdly, The site whereon the party-wall should be built; and with regard to intermixed buildings, what party-arches may be necessary

sary over or under any rooms of such buildings so intended to be rebuilt; and

Fourthly, The quantity of the soil or ground or other parts of the premises (if any) necessary to be laid to or taken from the house of the person desirous to rebuild, to the house of the person permitting him to erect a party-wall or party-arch; and

Fifthly, The compensation (if any) which should be made and paid by the building-owner, of either or any of the premises affected thereby, to the adjoining owner, in lieu of the lessening either of the said buildings by such party-wall or party-arch, or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby to any of the said parties;

Notice to parties.

AND THAT, upon the receipt of such certificate, it shall be the duty of the Official Referees, and they are hereby required, to cause notice thereof to be given to the parties or to such of them as are known;

Confirmation by Official Referees.

AND THAT IF within Seven Days after such notice to the parties, the certificate be not appealed against, AND IF the Official Referees be of opinion that the work is proper to be done, and the compensation is fair, THEN it shall be lawful for the Official Referees to confirm such certificate, and to authorize the building-owner to proceed with the works, as if the consent of the adjoining owner had been obtained:

Proceedings on appeal against certificate.

AND THAT IF any party concerned shall appeal against the certificate of the Surveyor as to the work to be done, or as to the compensation, or as to any other matter referred to in such certificate, in pursuance of the above provisions, THEN it shall be the duty of the Official Referees, and they are hereby required to appoint one of their number to survey the building in question;

Notice by Official Referees.

AND THAT for that purpose it shall be the duty of the Official Referee so appointed, and he is hereby required to give notice to the parties, and to any one or more Surveyors or other agents by them appointed, as to the time when he will view the premises;

Survey.

AND THAT at such time it shall be the duty of such Referee, and he is hereby authorized to view such premises accordingly, and to inquire into the matters appealed against, and to certify to the Official Referees his opinion thereon;

Award.

AND THAT, upon such certificate being made, it shall be lawful for the Official Referees to make their award, thereby either confirming, or reversing or modifying, as to them the case may seem to require, the certificate of the surveyor, and appointing by whom and in what proportions the expenses of the surveys and of the reports thereon are to be paid; and such award shall be final and conclusive;

Works authorized.

AND with regard to any works by such award authorized, so far as relates to the proceedings of the building-owner, THAT IF, upon the making of the award, the periods of the notices by this Act prescribed with regard to works of that nature have elapsed, THEN immediately upon the making of the award, BUT IF such periods have not elapsed, THEN as soon after the making of the award as such periods shall have elapsed, it shall be lawful for the building-owner, his agents, servants and workmen, to proceed to execute the works.

25. Reparation and rebuilding at joint expense.

AND BE IT ENACTED, with regard to any party-wall, party-arch or external wall used wholly or in part as a party fence-wall, so far as relates to the reparation and rebuilding thereof, at the joint expense of the owners of the buildings parted thereby, THAT IF such party structure be so defective or so far out of repair as to render it necessary to pull down and rebuild the same, or any part thereof, THEN, on notice being given by the owner of one of the buildings to the adjoining owner, according to the form (No. 8.) in the Schedule of Notices, or to the like effect, it shall be lawful for the building-owner to require a survey, certificate and award authorizing the execution of such reparation or rebuilding, according to the provisions hereinbefore contained in that behalf.

26. Rebuilding of party-walls.

AND BE IT ENACTED, with regard to sound party-walls, so far as relates to the rebuilding thereof, at the expense of the building-owner, THAT IF the owner of one of the buildings desire to rebuild such party-wall, THEN, on giving to the adjoining owner the required notice of Four Months, according to the said form (No. 8.), it shall be lawful for such building-owner, and he is hereby entitled to pull down and rebuild such party-wall; BUT UPON condition that he do pay all the costs and charges thereof, and also all the expenses incidental to the execution of the work, including therein the fees and expenses of the survey, and the fees of the Surveyors and in respect of any services performed by the Official Referees.

27. building party-wall.

AND BE IT ENACTED, with regard to any party-wall so far as the rebuilding thereof; THAT IF the owner of one of the buildings parted by such party-wall rebuild such building of a higher rate, and do not pull down such party-wall and build a proper wall in lieu thereof, THEN it shall be his duty, and he is hereby required, to build up an external wall against such party-wall.

Building of an external wall against a party-wall.

28. Damage arising from erection of external wall against a party-wall.

AND BE IT ENACTED, with regard to an external wall built against a party-wall, so far as relates to the operations incident thereto, and to the making good any damage occasioned thereby, THAT IF it be necessary to excavate or dig out the ground against the wall of any adjoining building, for the purpose of erecting a wall thereon, or for any other purpose, THEN it shall be lawful for the building-owner and he is hereby entitled so to do; BUT upon condition, that the said building-owner do, at his own costs, shore up and underpin such wall, or such part thereof, to its full thickness, and to the full depth of such excavation, with good sound stock-bricks and tiles or slates bedded in cement, or with other proper and sufficient materials; such underpinning to be done in a workmanlike and substantial manner; AND THAT IF, for the purpose of erecting such external wall, it be necessary to cut away part of the footings of such party-wall on the side next to the wall so to be built, and any part of the chimney breasts and chimney-shafts belonging to the building about to be rebuilt, as shall project beyond the perpendicular face of such party-wall, in the

Cutting into footings and chimnies.

the owest floor thereof, THEN, on giving notice of such intention in writing to the owner of the adjoining building, at least One Month before commencing operations, according to the form (No. 15.) in the Schedule of Notices, or to the like effect; AND on the expiration of such notice, it shall be lawful for the building-owner and he is hereby authorized to cut away such portion of the footings, breasts and chimney-shafts aforesaid; BUT so that the same be done, and the brick-work where cut be again made good in cement, under the superintendence and to the satisfaction of the Surveyor.

29. Making good such damage.

PROVIDED always, AND BE IT ENACTED, with regard to such party-wall, so far as relates to the making good of any such damage, THAT IF it be so damaged and injured by such cutting away, as in the opinion of the adjoining owner or occupier to be ruinous or dangerous, THEN, upon application for that purpose, it shall be the duty of the Surveyor, and he is hereby required to survey such wall; AND IF upon the survey thereof it be found ruinous or dangerous, THEN to condemn it; AND THAT, thereupon, it shall be the duty of the building-owner to pull down and rebuild such party-wall; AND THAT IF, in the opinion of the Surveyor or of the Official Referees, such damage or injury shall have been occasioned by want of due care on the part of the building-owner, THEN it shall be the duty of such building-owner and he is hereby required to pull down and rebuild such party-wall; and that at his own costs and charges, including therein all the costs and expenses incident to such survey, and the pulling down and rebuilding of such party-wall, and the reinstating and making good all the internal finishings and decorations damaged thereby; AND THAT IF the owner of the building to be rebuilt do not proceed with all due despatch to pull down and rebuild such party-wall, and to reinstate and make good all the internal finishings and decorations of the adjoining premises, and to pay the costs and charges and expenses of the survey, THEN it shall be lawful for the adjoining owner so to do, and he is hereby entitled to recover all the costs and expenses in respect thereof from such owner, his heirs, executors, administrators or assigns.

Survey.

Damage from carelessness.

Rebuilding.

30. Rebuilding of sound party-walls.

AND BE IT ENACTED, with regard to any sound party-wall against which an external wall shall have been built, and which shall have been suffered to remain so far as relates to the re-building thereof, THAT IF, while such party-wall continues sound, the adjoining building be pulled down or rebuilt, and such party-wall be pulled down, THEN the owner of such adjoining building shall not be entitled to more than his just proportion of the materials thereof, nor to more than his just proportion of the ground on which such party-wall was built, nor shall he build on more than his just proportion of the said ground, unless he shall have agreed with and satisfied the owner of the building so previously rebuilt for his half thereof; AND THAT IF the said owners cannot agree concerning

concerning the division of such materials, or of such ground, or of the building thereon, or concerning the reimbursement of the party first rebuilding as aforesaid, THEN the price and all matters in difference, including the sale and purchase of the ground in question, shall be settled by a reference to the Official Referees, whose award shall be final.

Reference to Official Referees.

31. Raising of Buildings. Future Buildings.

AND BE IT ENACTED, with regard to every building hereafter built, so far as relates to the raising thereof, THAT it shall be lawful to raise any building, BUT SO THAT, nevertheless, the party and external walls and chimnies thereof, when so raised, be of the materials and of the several heights and thicknesses hereinbefore described for party and external walls and chimnies of the rate such building shall be of when so raised; AND with regard to buildings already built, so far as relates to the raising thereof, THAT, although the walls of such buildings be not of the thicknesses prescribed by this Act, if, in the opinion of the Surveyor, such walls be sufficiently secure to allow of the raising thereof, THEN it shall be lawful to raise any such building already built to an additional height, not exceeding Ten Feet; AND with regard to any building adjoining one which shall be raised, so far as relates to the raising of the chimnies thereof, THAT IF any building be raised, it shall be the duty of the owner of such building, and he is hereby required to build up, at his own expense, the party-walls between his own and any adjoining building, and all flues and chimney-stacks belonging thereto; AND with regard to any building raised, so far as relates to the use thereof by the adjoining owner, THAT IF at any time the owner of any such adjoining building make use of any portion of the part raised of such party-wall by building against it, or otherwise, it shall be lawful for the owner of the premises so first raised, to claim, and he is hereby entitled to recover the cost of a proportionate part of the portion which shall be so used, together with the cost of such parts of the chimney-stacks as belong thereto.

Existing Buildings.

Chimnies of adjoining Buildings.

Use of raised Buildings.

32. Repairing and rebuilding of party fence-walls.

AND BE IT ENACTED, with regard to party fence-walls, so far as relates to the reparation and rebuilding thereof, THAT if the owner of any of the premises parted thereby give One Month's notice of his intention to the adjoining owner to repair, pull down and rebuild the same, it shall be lawful for him so to do; AND IF the wall be below the height of Nine Feet from the ground on either side, THEN either to raise it to that height, or to pull it down and to rebuild it to that height; BUT upon condition that he do pay all the expenses thereof; AND THAT IF a building be to be erected against such party fence-wall, and such wall be not conformable to the requisites prescribed for a proper party-wall for a building of that Class and Rate, THEN it shall be lawful for the building-owner, and he is hereby entitled to pull down such party fence-wall; BUT upon condition that he do pay all the expenses thereof; and also that he do make good every damage which shall accrue to such adjoining premises by such rebuilding: PROVIDED ALWAYS,

Deficient party fence-wall.

ALWAYS, with regard to the expense of so pulling down such party fence-wall, and rebuilding the same, THAT IF thereafter the adjoining owner use such party-wall for any purpose to which, if it had not been pulled down and rebuilt, it would not have been applicable, THEN to such extent as such adjoining owner shall so use such wall, the building owner shall be entitled to be reimbursed the expenses of so pulling down and rebuilding such wall: PROVIDED ALSO, with regard to any such party fence-wall, so far as relates to the limitation of the height thereof, THAT IF any party desire to raise such wall so as to screen from view any offensive object or neighbourhood, THEN on application to the Official Referees, it shall be lawful for them to authorize such work, but not so as to obstruct the free circulation of the air, or to injure the property adjoining to or in the neighbourhood of such wall.

Reimbursement of expense of operations.

Limitation of height of screen walls.

33. Pulling down party timber partitions.

AND BE IT ENACTED, with regard to the party timber partitions of existing buildings belonging to different owners, so far as relates to the pulling down thereof, and any wall under or over the same, THAT IF one of the buildings be rebuilt, OR IF one of the fronts of any such buildings be taken down to the height of one story, or for a space equal to one-fourth of such front from the level of the second floor upwards, THEN, without the consent of the adjoining owner, but upon giving the requisite notice, according to the forms (Nos. 11, 12, 13), in the Schedule of Notices, or to the like effect, it shall be the duty of the building-owner, and he is hereby required, to pull down such timber partitions, and the walls under or over the same, and in lieu thereof to build a proper party wall; AND that at the expense of the owners of all the premises parted thereby.

34. Pulling down intermixed Buildings.

AND BE IT ENACTED, with regard to buildings built over public ways, or having rooms or stories, the property of different persons, lying intermixed (except Inns of Court hereinafter provided for), so far as relates to the pulling down and laying the parts thereof to each other, THAT IF a party-wall or party-arch cannot be built without pulling down such buildings, and so laying parts thereof to each other, AND IF, in default of the consent of all proper parties, the Official Referees authorize such works, THEN it shall be lawful for the owner of either of the said buildings to execute the same; BUT SO THAT the party-walls or party-arches be conformable to the provisions of this Act, and the directions of the said Official Referees in their award made in that behalf.

35. Exceptions of Inns of Court, &c.

AND BE IT ENACTED, with regard to the rooms or chambers in the Inns of Court, (that is to say) in Serjeants' Inn, Chancery-lane, or in any of the four Inns of Court, or in any of the Inns of Chancery, or any other Inns set apart for the study or practice of the law, so far as relates to the building of party-walls, THAT the walls or divisions between the several rooms and chambers in such Inns, belonging to and communicating with each separate and distinct stair-

case, shall be deemed to be party-walls within the meaning of this Act and as such must be built in conformity with the regulations and clauses herein contained relating to party-walls.

36. Power of entry on premises to effect works.

AND for the purpose of facilitating and regulating the execution of any works authorized by this Act, or by any award, in pursuance thereof, in respect of any party-wall or party-arch, parting the buildings or grounds belonging to different owners, or in the occupation of different persons, or in respect of intermixed buildings; BE IT ENACTED, with regard to any such works, so far as relates to the power to enter the adjoining premises in order to execute the same, THAT IF such work have been duly authorized, either by the consent of the parties competent to give such consent, or by the award or certificate of the Official Referees, THEN, at any time between the hours of Six in the morning and Seven in the afternoon (Sundays excepted), it shall be lawful for the building-owner, or any other person acting in his behalf, accompanied by a constable or other officer of the peace, and they are hereby respectively empowered, to enter on the premises of the adjoining owner, so far as may be necessary for executing such work; AND THAT IF the outer-door of such building be shut, and being thereunto required, the person therein refuse to open the same, OR IF such building be empty and unoccupied, THEN it shall be lawful to break open such outer-door; AND IF any goods, furniture or other thing obstruct the building of such intended party-wall or party-arch, or the pulling down any wall, partition or other thing necessary to be pulled down and removed in order to the building such intended party-wall or party-arch, THEN to remove such goods, furniture and things to some other part of the same premises, OR IF there be no room on the premises sufficient for that purpose, to remove them to any other place of safe custody; AND THAT from and after such entry, and at all usual times of working, it shall be lawful for the builder employed to erect such intended party-wall or party-arch, and for his servants and all others employed by him, to enter into and upon the premises, and abide therein the usual times of working, as well for the shoring up of the said building so broken into and entered upon, and for taking down and removing any party-wall, partition, wainscot or other thing necessary to be taken down and removed for the purpose aforesaid, as to build such intended party-wall or party-arch; AND THAT IF in any manner any such owner or other person hinder or obstruct any workman employed for any of the purposes aforesaid, or wilfully damage or injure the said works, THEN every such person so offending shall forfeit for every such offence a sum not exceeding Ten Pounds.

Opening doors and removal of goods, &c.

Continuance of entry.

Penalty for hindrance.

37. Stopping of openings in external walls abutting on other premises.

AND NOW, FOR THE PURPOSE of further protecting the interests of adjoining owners, BE IT ENACTED, with regard to external walls adjoining the ground or building of another owner, so far as relates to the making of openings therein, THAT IF, without the consent

consent in writing of the owner of such ground or building, any opening be made in any such wall, THEN it shall be lawful for such owner, and he is hereby entitled, to require the owner of the premises in which such opening shall be made to stop up the same with brick or stone-work, as the case may be, according to the form (No. 5.) in the Schedule of Notices, or to the like effect; AND THAT IF, within One Month after such notice, such stoppage be not effected, THEN it shall be lawful for such owner, and he is hereby entitled, either by himself or his workmen, with tools, implements and materials, to cause such openings so to be stopped, and he is also hereby entitled to be repaid the costs thereof; AND with regard to such Costs, so far as relates to the adjustment thereof, THAT IF such owner refuse to make payment thereof, OR IF there be any dispute as to the amount thereof, THEN, on application for the purpose to the Official Referees, by either of the parties concerned, it shall be lawful for the person by whom they have been incurred, and he is hereby entitled, to refer the matter of such dispute to the Official Referees, and to have their determination thereon; AND THAT it shall be the duty of such Official Referees to give to the applicant a certificate in relation thereto; AND THAT IF any party liable to pay any sum of money under such certificate fail to do so, THEN it shall be lawful for the party entitled to such costs to recover the same, in the manner hereinafter provided for the recovery of the costs, charges and expenses of executing any works in pursuance of this Act.

Stoppage thereof.

Costs of stopping up.

Certificate of Official Referees.

Recovery of costs.

38. AND BE IT ENACTED, with regard to walls, so far as relates to the building thereof on vacant ground at the line of junction of premises belonging to different owners or in different occupations, THAT One Month before the owner of any piece of vacant ground, or ground not hitherto built upon, shall build any building adjoining to another piece of vacant ground, or ground not hitherto built upon, or build a fence-wall for such piece of ground, IT shall be his duty, and he is hereby required to give to the owner or occupier of such adjoining vacant ground, a notice, which must be in writing, and must set forth his desire to build a party-wall or party fence-wall, and describe the thicknesses and dimensions of such desired party-wall or party fence-wall, according to the form (No. 16.) in the Schedule of Notices, or to the like effect; AND THAT IF, within such period of One Month, such adjoining owner shall signify his consent in writing, THEN the same must be built partly on the ground of one of the said owners or occupiers, and partly on the ground of the other owner, and such last-mentioned part is to be paid for as is hereinafter directed by such other owner or occupier; BUT if he do not signify such consent, THEN it shall be the duty of the building-owner to build an external wall for such building, and fence-wall for such ground entirely upon his own ground, except as to the footings of any such wall.

Building of party-walls next vacant ground.

Consent of adjoining owner.

AND BE IT ENACTED, with regard to any new party-wall, built on the line of junction of premises belonging to different owners, so far as relates to the providing of chimney-breasts and other accommodation for the adjoining owner, THAT when the owner of any piece of vacant ground shall have obtained the consent of the adjoining owner to build a party-wall on the line of junction of their respective premises, THEN, Ten Days at the least before beginning to build such party-wall, it shall be the duty of the building-owner to give the adjoining owner notice thereof, according to the form (No. 8.) in the Schedule of Notices, or to the like effect; AND THAT IF in due time the adjoining owner shall give instructions in writing, or by a plan and elevations or other sufficient drawings, THEN it shall be the duty of the building-owner to construct, if practicable, such and so many chimney-jambs, breasts and flues of chimneys, in all such parts of such party-wall as shall be by such instructions required, and to leave such recesses in every such wall as may be so required; BUT SO THAT they be conformable with the directions of this Act concerning party-walls and chimneys; AND THAT thereupon it shall be lawful for the building-owner to claim, and he is hereby entitled to recover from the adjoining owner all the expenses of constructing such chimney-jambs, breasts and flues of chimneys and recesses, as provided by this Act in that behalf.

39. Building of chimney-breasts, &c., in new party-wall for adjoining-owner.

Instructions by adjoining owner.

Reimbursement of expenses.

RUINOUS BUILDINGS.

AND WHEREAS buildings within the limits of this Act are often, either from litigated titles thereto, or from the obstinacy, neglect or poverty of the owners thereof, or of the parties interested therein, or from other causes, in so ruinous a condition that passengers are endangered thereby; NOW for the purpose of making provision in that behalf; BE IT ENACTED, with regard to ruinous buildings, or parts of buildings, so far as relates to repairing or pulling down the same, THAT, upon receiving information of any building being in a ruinous and dangerous condition, it shall be the duty of the Surveyor, and of the overseers for the time being of the parish or place in which the same shall be, and they are hereby respectively required, to apply forthwith to the Official Referees to authorize a survey to be made thereof; AND THAT, thereupon, it shall be lawful for the Official Referees to direct the Surveyor to make such survey; AND THAT, thereupon, it shall be the duty of such Surveyor to act in all respects as in the case of a survey of party-walls; AND THAT, upon the receipt of the certificate of the Surveyor, it shall be lawful for the Official Referees, and they are hereby required to cause a copy thereof to be transmitted, IF the premises be within the city of London, THEN to the Court of Lord Mayor and Aldermen, and IF they be elsewhere, THEN to the Overseers of the poor of the parish or place in which such premises shall be; AND THAT, thereupon, it shall be the duty of such Mayor and Court of Aldermen and Overseers to cause, with all convenient speed, any such ruinous building to be securely shored, or a proper and sufficient hoard to be put up for the safety of all passengers;

40. Repairing and rebuilding.

Application to Official Referees.

Survey.

Notice to Lord Mayor, &c., and to Overseers.

Shoring and Erection of hoards, and Notice to parties.

passengers; AND to cause notice in writing to be given to the owner of such building to repair or pull down the same or any part thereof as the case may require, within Fourteen Days then next ensuing; AND THAT IF within the said Fourteen Days the repair or demolition thereof be not begun and be not completed as soon as the nature of the case will admit, THEN on a declaration being made before the said Lord Mayor or a Justice of the Peace, of such notice having been so given, (which declaration the said Lord Mayor and Justice are hereby respectively empowered and required to receive), it shall be lawful for the said Lord Mayor and Court of Aldermen, and they are hereby authorized and required, out of the cash in the Chamber of London, and also for every such Overseer of the poor by and out of the money in his hands, and they are hereby severally authorized and required, with all convenient speed, to order and cause such building or such part thereof so certified to be in a ruinous and dangerous condition, as shall be necessary for the safety of the passengers, to be repaired or pulled down, or secured in such manner as shall from time to time be requisite: PROVIDED always, That if such Lord Mayor and Aldermen, or such Overseers, appeal against such certificate, it shall be the duty of the Official Referees to proceed to survey, to certify and to award in all respects as in the case of an appeal from the certificate of the Surveyor with reference to party-walls or intermixed buildings; AND THAT if such Official Referees certify that the said premises are ruinous and dangerous, it shall be the duty of the said Lord Mayor or the said Overseers to repair or pull down such building as aforesaid.

Repairs.

Appeal against survey.

Demolition.

41.

Disposal of materials to pay costs.

AND BE IT ENACTED, with regard to any such ruinous buildings so pulled down, so far as relates to the disposal of the materials thereof and to the application of the proceeds, THAT it shall be lawful for the said Lord Mayor and Court of Aldermen, or the said Overseers, to sell and dispose of such of the materials as they shall judge necessary, and out of the monies arising from the sale thereof to reimburse to themselves, the Surveyors and Official Referees, and every person by them respectively employed for the purposes aforesaid, all the charges of the survey and appeal, and of putting up every such hoard, and of repairing, pulling down and securing such premises, and of making good the pavement, and of selling the said materials as aforesaid, or so much thereof as the monies arising by such sale will extend to; AND THAT IF there be any surplus after payment of all expenses, THEN, upon demand thereof made by such owner, it shall be the duty of the said Lord Mayor, or of the said Overseers, to account for and pay such surplus of the monies arising by such sale to the owner of such building: OR IF there be any question as to the person entitled to such surplus, or as to the priority of title to such sum of such persons so entitled, or as to the proportions to which such persons are so entitled, THEN it shall be lawful either for the Lord

Payment of surplus on demand.

Mayor or the Overseers, or for any person claiming to be so entitled, to refer the matter to the determination of the Official Referees, and their decision shall be final; AND THAT IF no such demand be made, THEN such surplus shall, as regards places within the city of London, and the liberties thereof, be paid to the Chamberlain of the city; and as regards all other places, such surplus shall be added to the monies raised as rates for the relief of the poor of the parish or place, and accounted for accordingly: PROVIDED NEVERTHELESS, That, at any time within Six Years from the deposit of such surplus, it shall be lawful for any such owner, his executors or administrators, to claim and he and they are hereby entitled to recover such surplus; AND the said Lord Mayor and Aldermen of the city of London, as regards the said city and liberties thereof, are hereby required to pay such surplus out of the cash in the Chamber of London; and every overseer, as regards places not within the said city or the liberties thereof, is hereby required to pay such surplus out of any monies raised or to be raised by any rate for the relief of the poor.

If no demand.

City of London or Overseers to refund within Six Years.

42. AND BE IT ENACTED, with regard to such ruinous buildings, so far as relates to the expenses of any such survey and appeal, putting up such hoard, repairing, pulling down and securing such buildings, and selling the materials beyond the amount thereof, which shall have been satisfied by the application thereto of the proceeds of the materials, THAT IF the monies arising from such sale be insufficient to repay all such expenses, THEN, from time to time, such deficiency shall be paid by the owner of every such building, if known; AND THAT IF, on demand thereof, such owner fail to pay such deficiency, THEN it shall be lawful for the Lord Mayor for the time being, if such ruinous building in question be within the city of London or the liberties thereof, or if elsewhere, for two or more Justices of the Peace, to levy the amount thereof by warrant under their hands and seals, by distress and sale of the goods and chattels of such owner, if any such can be found; AND THAT if no such owner can be met with, or being met with, shall not, on demand, pay the said deficiency, and no sufficient distress of the goods and chattels of such owner can be found, THEN it shall be lawful for the person who shall at any time thereafter occupy any such building, or the ground where the same stood, and he is hereby authorized and required to pay and deduct the same out of the rent thereof; AND THAT IF he neglect or refuse to pay such deficiency, THEN it shall be lawful for the said Lord Mayor, or two or more such Justices of the Peace, and they are hereby empowered and required to cause the same to be levied by distress and sale of the goods and chattels of any occupier of the premises, together with the costs of every such distress and sale; AND THAT IF the premises be situate wthin the city of London and its liberties, it shall be the duty of the person by whom the same shall be

If a deficiency, to be paid by owner;

Or levied by warrant of distress;

Or occupier to pay and deduct from rent;

Or by distress on occupier.

Payment of money to Chamberlain or to the Overseers.

be received, and he is hereby required to pay the amount to the Chamberlain, to be by him from time to time placed to the credit of the cash of the said city of London; AND if the premises, in respect of which such money shall be received or recovered, be not situate within the said city of London and the liberties thereof, THEN to pay the amount received to the Overseers of the poor for the time being of the parish or place where the premises shall be situate, to be by them placed to the account of the said parish, in aid of the poor rate of the parish or place.

43. Repair of ruinous Chimnies, &c.

AND BE IT ENACTED, with regard to ruinous chimnies, roofs and projections, so far as relates to the repairing thereof, THAT IF a chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof, or any projection from the front walls of any building, be in danger of falling; THEN it shall be the duty of such Surveyor and he is hereby required to require the occupier of such building, OR IF there be no occupier, THEN the owner thereof, to take down or secure the same within Thirty-six Hours after notice thereof shall have been given; AND THAT IF, within the time specified, such occupier, or some other person interested in such building, do not begin to take down or secure the same, and, as soon as the nature of the case will admit, complete such taking down or securing of the same, THEN it shall be the duty of such Surveyor to give information thereof to a Justice of the Peace; AND, thereupon, it shall be the duty of such Justice of the Peace to proceed to cause such chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof or projection from the front or side wall of such building as shall be considered by such Surveyor in danger of falling, to be forthwith taken down or secured; AND THAT if there be no occupier or known owner, THEN it shall be lawful for such Justice to direct that the reasonable expenses, to be certified by the Official Referees, be paid by the Overseers of the parish or place in which such building shall be situated; AND THAT IF thereafter the owner of such building become known, OR IF the building become occupied, THEN it shall be lawful for the Overseers of the poor, and they are hereby entitled to recover the amount of such expenses from such owner or from such occupier, as in the case of ruinous buildings hereinbefore provided for; AND THAT IF within the time limited the occupier or some other person interested in such building do not take down or secure the same, THEN for every day during which the same shall so remain unrepaired or not sufficiently secured, such occupier or the owner, if there be no occupier, shall forfeit and pay the sum of Five Pounds; AND THAT such occupier or owner shall also pay the Surveyor's fees and all other costs, charges and expenses attendant upon any such taking down or securing the building; AND all such Surveyor's fees, and other costs, charges aud

Notice.

Repairs.

Certification of expenses.

Recovery from owner or occupier.

Penalty.

Fees and expenses.

RUINOUS BUILDINGS.

expenses may be recovered and levied in the same manner as such penalty: PROVIDED always, THAT IF the occupier of such building be not bound by virtue of any lease or other instrument to repair, reinstate or secure the premises, THEN such occupier is hereby entitled to retain out of the rent payable in respect of such premises, all such penalties, costs, charges and expenses attendant upon or arising out of the taking down or securing, or the repairing or rebuilding the same, as in the case of any other works, the costs of which he is hereby required to pay in the first instance.

Reimbursement of occupier.

44. Injury by the fall of chimnies, &c.

AND BE IT ENACTED, with regard to adjoining buildings, so far as relates to the making good any damage arising from the falling down of parts thereof, (except any such part of a party-wall as shall belong to and be used conjointly by the owners or occupiers of the buildings parted thereby), THAT IF at any time any injury or damage be caused to any part of an adjoining building, or to the internal decorations and furniture in such building, by the falling down from any other building of any chimney-shaft, chimney-pot, parapet, coping or other thing, THEN it shall be the duty of the owner of the building from which such part shall fall, and he is hereby bound and required to reimburse the expense to which the owner or occupier may be put in making good such injury or damage, in like manner as herein directed concerning the reimbursement of the expenses of ruinous party-walls; and such costs shall be recoverable in the manner hereinafter directed for the recovery of the costs and expenses of executing works in pursuance of this Act.

Compensation.

45. Court of Mayor and Aldermen.

AND BE IT ENACTED, THAT all the powers and authorities by this Act vested in the Mayor and Aldermen of the city of London, may be lawfully exercised by the Court of Mayor and Aldermen of the said city, to be holden in the outer chamber of the Guildhall of the said city, according to the custom of the said city.

EXPENSES OF WORKS.

46. Repayment of expenses of works in certain cases.

AND, FOR THE PURPOSE of reimbursing any building-owner for the expense of works incurred in respect of any party-structure; BE IT ENACTED, with regard to the following works, so far as relates to the reimbursement, by the adjoining owner, of expenses incurred by the building-owner, in respect of any party-structure, built to part the buildings or premises belonging to other owners from the buildings or premises belonging to himself; that is to say,—

First, With regard to any party-wall hereafter built on the line of junction of any two buildings; and,

Second, With regard to any party-wall hereafter built on the line of junction of any building and any vacant ground, or of vacant premises, belonging to different owners or occupiers; and,

Third, With regard to a ruinous and defective party-wall pulled down and rebuilt, either with the consent of the adjoining owner, or in pursuance of the condemnation thereof, according to this Act, except a party-wall condemned on account of the injury done thereto by any building-owner, and the expenses of which

which and of other incidental works the Official Referees shall have awarded to be paid by such building-owner, by virtue of the provision in that behalf; and,

Fourth, With regard to one or more timber partitions betwen any two or more buildings pulled down, and a party-wall built in lieu thereof; and,

Fifth, With regard to a new party-wall or party-arch built in lieu of any party-wall or party-arch between intermixed properties pulled down, either with the consent of the adjoining owner, or in pursuance of the condemnation of such party-wall or party-arch; and,

Sixth, With regard to any party-wall built on the site of a party fence or party fence-wall, and used otherwise than as a party fence wall by the person who shall not have built the same; and,

Seventh, With regard to every other case of reimbursement, in respect of any party-structure;

Recovery of expense from adjoining owners.

THAT IF the party structure, be built in the manner, and of the materials, and of the thicknesses of such structure as required by this Act in reference thereto, THEN it shall be lawful for the building-owner at whose expense such work shall have been executed, to claim and he is hereby entitled to be paid and to recover from the adjoining owner who is in the immediate occupation of the adjoining building or ground, or in the immediate receipt of the profits thereof, the following compensations; that is to say,—

IF a new party-wall or party-arch built on the line of junction by one owner, be made use of, either wholly or partially, by the adjoining owner, THEN a sum of money proportionate to the value of so much of such party structure so made use of; and

IF chimney-jambs, chimney-breasts and flues have been set up in any party-wall in pursuance of the instructions of the owner of any vacant ground adjoining to the same, THEN a sum equal to the value thereof; and

IF an unsound party-wall or other party structure be pulled down and rebuilt, THEN a sum of money equal to a proper proportion of the value of the new party structure, deduction being made for a due proportion of the old materials, and also a proportionate part of all expenses which shall be necessary for pulling down the old party structure, in lieu of which such new party structure shall be built; and

IF a party-wall be built in lieu of a timber partition or other party structure, and be made use of by the adjoining owner, THEN a sum of money proportionate to the value of so much of such new party-wall as shall be so made use of; and also a proportionate part of all expenses which shall be necessary for pulling down the old timber partition or other party structure; and

IF a party-wall or party-arch already built, or hereafter rebuilt, be used by an adjoining owner, THEN a sum of money proportionate to the value of so much of such party structure, as the adjoining owner shall use, deduction being made, where proper, for the value of old materials;

 And,

And, in every case, the whole of the reasonable expenses of the shoring up the adjoining building, and of removing any goods, furniture or other things therein, and of pulling down any wainscot or partition thereof;

And also, such Surveyors' fees and any other fees payable in in respect of any acts performed by the Official Referees; and also, such other costs (if any) as may have been awarded by the Official Referees as aforesaid, in any of the cases hereby provided for;

Delay of payment.

AND until such expenses shall be so paid, every person at whose expense such party structure shall have been built is hereby entitled to and shall be possessed of the sole property thereof, and of the ground whereon it stands, and the same shall be vested entirely in the person at whose expense such party structure shall have been built.

47. Recovery of Costs of Buildings.

AND BE IT ENACTED, with regard to the costs of all the works which shall be executed under this Act, incurred, either by an owner or by an occupier, either on behalf of the owners of the same premises, or on behalf of the owner of the adjoining premises, so far as relates to the recovery thereof, THAT, within Twenty-one Days after the completion of the work, it shall be the duty of the person by whom such expense shall have been incurred, to deliver to the adjoining owner of the building or premises in respect of which such expense shall have been incurred, an account in writing of the expenses of the work, including all preliminary and incidental operations; AND ALSO IF the work shall have been executed by the authority of the Official Referees, by virtue of the power hereby provided for supplying the want of consent of owners, THEN a copy of such account shall also be delivered to the Official Referees at their office; AND THAT every such account must contain a true account,—

Account.

First, Of the number of rods and parts of rods of brick-work, and of all digging, and of concrete, stone-work and other requisite materials, and of the labour required in executing so much of the work as the owner of the adjoining building shall be liable to pay, and of the respective prices thereof: and,

Secondly, Of any deduction which such adjoining owner shall be entitled to make therefrom on account of the old materials of so much of the wall or other structure pulled down, which shall have belonged to him:

Data of Account.

And also a true account of the expenses of all other preliminary and incidental operations; AND THAT all such works must be estimated and valued, in every such account, at such rates and prices as shall from time to time be fixed by the Official Referees; AND THAT IF within Ten Days from the delivery of such account, any party dissatisfied with the proportion of the amount thereof charged to him, appeal to the Official Referees, THEN upon the receipt thereof, or if, in cases of want of due consent as aforesaid, such account be delivered to the Official Referees as aforesaid, it shall be the duty of the

Examination of accounts by Official Referees.

the Official Referees to examine such account, and to certify whether they approve or disapprove of the items thereof, and whether the rates and prices are duly charged, and whether the proportion of the account charged to the party appealing be duly charged, and also to appoint how and by whom the expenses of such examination are to be borne, and also to appoint the time or times at which the amount of such account, and of such expenses payable by any party, are to be paid; AND THAT IF they certify their disapproval, or that the charges are not duly made, or the amount fairly apportioned with regard to the party appealing, THEN before any demand be made or any proceedings be taken thereon, the account must be amended, and again examined by the Official Referees, and certified as aforesaid; AND THAT IF the Official Referees certify their approval, THEN at the time or times appointed by the said Official Referees, it shall be lawful for the person entitled to such costs and expenses to demand the amount thereof; AND THAT IF, within Ten Days after the delivering of such account to the party liable to pay the same, such party do not either appeal against such account or pay the same; OR IF, within Ten Days after the demand thereof, in conformity with the certificate of the Official Referees, the amount thereof, together with the costs of the examination of the account as the Official Referees shall certify, be not paid; THEN it shall be lawful for the person entitled thereto to recover the same, or so much thereof as shall be then due, by the summary proceeding hereby provided.

Disapproval.

Approval and Demand of payment.

Recovery of amount.

48. Reimbursements of costs of works to occupiers.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to works executed under this Act, so far as relates to the reimbursement to the occupier of any costs by him paid in respect thereof, THAT, unless there besome express agreement to the contrary between the parties, it shall be lawful for such occupier and he is hereby entitled to deduct from the rents due or becoming due from him to his lessor or landlord, the amount of any such costs, charges and expenses payable by his lessor or landlord, and the costs, charges and expenses of any distress and sale made on him through the default of his lessor or landlord; AND THAT the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier.

Discharge and Repayment.

49. Recovery of expenses of buildings.

AND BE IT ENACTED, with regard to the costs and all other expenses of pulling down, securing, repairing and rebuilding party-structures, or other parts of buildings, according to the provisions of this Act, so far as relates to the recovery thereof, amongst the several owners of the premises, THAT when such costs and expenses shall

have been ascertained and paid by the owner upon whom the payment thereof shall have first fallen, THEN as to any building or tenement held under any lease, or agreement for a lease, or other agreement for the occupation thereof, made before the coming into operation of this Act, it shall be lawful for such owner, and he is hereby entitled to recover the same from the persons now bound or liable by law, or by any existing contract, to maintain and repair such buildings, in respect of which such costs and expenses shall have been incurred; BUT IF any dispute or difference arise as to the persons so bound or liable, THEN every such dispute or difference shall be referred to the Official Referees; AND THAT thereupon such Official Referees shall ascertain and determine the persons bound or liable to pay such costs and expenses, and also in what proportions such costs and expenses are to be paid by the parties liable to pay the same, and their decision shall be final; AND THAT as to any building or tenement to be held under any lease or agreement for a lease, or other agreement for the occupation thereof, made after the coming into operation of this Act, all such costs and expenses shall be charged upon the lessor granting such lease or making such agreement, and not upon any lessee or sub-lessee holding under any such lease or agreement; AND THAT in default of such costs and expenses being duly paid, it shall be lawful for the party to whom the same shall be payable, and he is hereby entitled to receive from the occupier thereof the rents and profits of such building or tenement; AND for that purpose to give notice to such occupier to pay over to him such rents and profits; AND THAT thereupon IF such occupier fail to pay such rent and profits accordingly, THEN it shall be lawful for the person to whom such costs and expenses shall be payable to recover the same from such occupier by the summary proceeding hereby provided, in such proportions and at such times as shall be appointed by the award of the said Official Referees in that behalf; AND THAT after such notice shall be given, and before such costs and expenses shall be paid, it shall not be lawful for any person otherwise entitled to receive such rents and profits, and he is hereby disabled from bringing any action and from taking any proceeding at law or in equity to recover such rents and profits; PROVIDED always, THAT IF on the hearing of the application for the warrant to levy such costs and expenses by distress according to the provision of this Act in that behalf, the occupier, not being an owner, show that he is not bound to pay, in respect of such building or tenement, any rent or profit, or that the amount of the rent or profit payable by him is not sufficient, THEN it shall not be lawful to issue such warrant, if there be no rent due or accruing; OR IF there be rent due or accruing, THEN to the extent only of the amount of such rent; AND THAT IF such costs and expenses or any part thereof remain unpaid, AND IF the same or any future occupier be or become liable to pay rent in respect of such building or tenement,

Differences.

Determination by Official Referees.

Charges.

Receipt of Rents.

Recovery of Rents.

Priority of right.

Limitation of distress.

Continuance of distress until payment made.

tenement, THEN from time to time, until the same be paid, it shall be lawful to levy the same by distress, according to the provisions of this Act in that behalf, upon the same or any such future occupier.

50. Official Referees to determine contributions.

Proportional contributions.

AND BE IT ENACTED, with regard to such costs and expenses of works executed under this Act, so far as relates to contribution thereto by persons bound or liable to make contribution, THAT for the purpose of enabling the party upon whom the payment of such costs and expenses shall fall, either in the first instance or subsequently, to obtain contribution from other persons, being part owners in like degree, it shall be lawful for every such first-mentioned person, whether he be freeholder, copyholder, leaseholder, mortgagee in possession, and whatever may be his interest or the nature and extent of such his interest, and whether he hold in his own right, or in right of others, and whatever may be the kinds and degrees of their respective interests, and he is hereby entitled to a contribution from every other person having as owner an interest in the premises of whatever kind or degree; WHICH contribution is to be computed, according to the amount of his interest, in proportion to that of other persons interested, so far as such persons may be known, or can be reached by process of law or equity; AND THAT it shall be lawful for any party so interested, and he is hereby entitled, to require the Official Referees to settle and determine the same by their award, and their decision shall be final; AND THAT IF the person upon whom the payment of such costs and expenses shall have fallen, have paid, in respect of the interest of another or others, either unknown or who could not be reached by process of any court of law or equity, more than his own just proportion, THEN, on the production of such award, duly made, signed and sealed, it shall be lawful for such person to have and exercise against other parties against whom such award shall be made, and he is hereby entitled to the like remedies, to compel payment of money, as are hereby given for compelling the first payment of such costs and charges of such expenses.

Decision of Official Referees.

Recovery of excess paid by any contributor.

51. CLAUSE (B.) Making of Drains according to Schedule (H.)

Penalties.

AND NOW, for the purpose of facilitating the improvement of the Drainage of Houses, BE IT ENACTED, with regard to the Drains, Cesspools and Privies to buildings hereafter built, so far as relates to the making thereof, THAT from the passing of this Act all the conditions, regulations and directions contained in the Schedule (H.) to this Act annexed shall be duly observed and performed; AND THAT if any person offend in respect thereof he shall be liable to all the penalties and forfeitures by this Act imposed, in respect of any buildings either built contrary thereto or without due notice to the Surveyor appointed, in pursuance of this Act, to inspect such buildings: PROVIDED always, with regard to such Drains, so far as relates to the communication thereof with the Sewers under the jurisdiction of

Communications with Sewers.

DRAINAGE OF HOUSES.

the Commissioners of Sewers, THAT unless the regulations of such Commissioners be repugnant to the directions contained in such Schedule, and to the extent to which such regulations are not so repugnant, it shall be the duty of every person, and he is hereby required to make such Drains to conform to such regulations: AND THAT with regard to such Drains, except so far as is hereby otherwise provided, all the rights, powers, jurisdiction and authority vested in any such Commissioners shall be as valid and effectual as if this Act had not been passed.

Saving Powers, &c. of Commissioners of Sewers.

STREETS AND ALLEYS.

52. Width thereof.

AND NOW, FOR THE PURPOSE of making provision concerning streets and other ways of the Metropolis; BE IT ENACTED, with regard to such streets and other ways hereafter formed, so far as relates to securing a sufficient width thereof, THAT, from the passing of this Act, all the conditions, regulations and directions contained in the Schedule (I.) to this Act annexed, shall be duly observed and performed; AND THAT IF any person offend in respect thereof, he shall be liable to all the penalties and forfeitures by this Act imposed in respect of any buildings either built contrary thereto, or without due notice to the Surveyor appointed in pursuance of this Act to inspect such buildings.

Penalties.

BUILDINGS, USE THEREOF.

53. Use and occupation of cellars or rooms unfit for dwellings.

AND now, for the purpose of discouraging and prohibiting the use of buildings unfit for dwellings, and the improper use of other buildings; BE IT ENACTED, with regard to every building of the First or Dwelling-house Class, whether already or hereafter built, so far as relates to the use and occupation thereof, or to the use and occupation of any underground room or cellar thereof, THAT it shall not be lawful to let separately to hire as a dwelling any such room or cellar not constructed according to the rules specified in the Schedule (K.) to this Act annexed, nor to occupy or suffer it to be occupied as such, nor to let, hire, occupy, or suffer to be occupied, any such room or cellar built underground, for any purpose (except for a ware-room or store-room); AND FURTHER, with regard to every building of the First or Dwelling-house Class, so far as relates to the use and occupation thereof, THAT it shall not be lawful to use or to suffer any part thereof to be used as a pig-sty, dog-kennel, or for any other noxious purpose; AND THAT IF any person wilfully let, or suffer to be occupied, or used, in manner aforesaid, any underground cellar or room, contrary to the provisions of this Act, or any other part of such building, contrary to the provisions of this Act, THEN, on conviction thereof, before two Justices of the Peace, such person shall be liable to forfeit, for every day that such cellar or room shall be so occupied, a sum not exceeding Twenty Shillings; AND the half of such penalty shall go to the person who shall sue for the same, and the other half

Noxious uses.

Penalty.

to

to the poor of the parish in which such unlawfully occupied or used cellar or room shall be situate.

54. Buildings near dangerous businesses as to fire.

AND now, for the purpose of making provision, concerning businesses dangerous in respect of fire or explosion; BE IT ENACTED, with regard to the following businesses, (that is to say): the manufacture of gunpowder or of detonating powder or of matches ignitable by friction or otherwise, or other substances liable to sudden explosion, inflammation or ignition, or capable of causing sudden explosion, inflammation or ignition, or of vitriol, or of turpentine, or of naphtha, or of varnish, or of fireworks, or painted table-covers, and any other business dangerous, on account of the liability of the materials employed therein to cause fire or explosion on matters coming in contact therewith, so far as relates to the erection of buildings in the neighbourhood of the place where any such business is carried on, and so far as relates to the carrying on of any such business in the neighbourhood of public ways or buildings, THAT it shall not be lawful hereafter to erect any building, of any class, nearer to than Fifty Feet from any building which shall be in use for any such dangerous business; but if a building already existing within Fifty Feet from any such building be hereafter burnt, pulled down or destroyed by tempest, such building may be rebuilt; AND THAT it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than Forty Feet from any public way, or than Fifty Feet from any other building, or any vacant ground belonging to any other person than his landlord; AND THAT IF any such business be now carried on in any situation within such distances, THEN, from the expiration of the period of Twenty Years next after the passing of this Act, it shall not be lawful to continue to carry on such business in such situations; AND THAT IF any person erect any building in the neighbourhood of any such business contrary to this Act, THEN, on conviction thereof before Two Justices, he shall forfeit the sum of Fifty Pounds; OR if any person establish anew any such business, or carry on any such business contrary to this Act, THEN, on conviction thereof before Two Justices, such person shall be liable to forfeit for every day during which such building shall remain near to such dangerous business, or during which such business shall be so carried on, a sum, not exceeding Fifty Pounds, as the said Justices shall determine; AND THAT IT shall be lawful for the Justices also to award to the prosecutor such costs as shall be deemed reasonable; AND THAT IF the offender either fail or refuse to pay such penalty and costs immediately after such conviction, THEN they may be levied by distress of the goods and chattels of the person convicted; OR IF there be no such distress, THEN such person shall be committed to the common gaol or house of correction for any time not exceeding

Distance from Buildings.

New businesses.

Prohibition after Thirty Years.

Fifty Pounds penalty and costs.

Costs.

Distress;

Or imprisonment.

BUILDINGS, USE THEREOF.

exceeding Six Months, at the discretion of such Justices; and that by warrant under the hands and seals of Two or more Justices of the Peace.

55. Buildings near dangerous and noxious Trades as regards health.

AND now, for the purpose of making provision concerning businesses offensive or noxious, BE IT ENACTED, with regard to the following trades or businesses; that is to say,—

Blood-boiler,
Bone-boiler,
Fellmonger,
Slaughterer of cattle, sheep or horses,
Soap-boiler,
Tallow-melter,
Tripe-boiler,

and any other business offensive or noxious, so far as relates to the erection of buildings in the neighbourhood of any such business, and so far as relates to the carrying on of any such business in the neighbourhood of any public way, or of other buildings of the First or Dwelling-house Class, THAT it shall not be lawful hereafter to erect any buildings of the First or Dwelling-house Class nearer to, than Fifty Feet from, any building which shall be in use for any such offensive or noxious business; but if a building already existing within Fifty Feet be hereafter burnt, pulled down or destroyed by tempest, such building may be rebuilt; AND THAT it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than Forty Feet from any public way, or than Fifty Feet from any other such buildings of the First or Dwelling-house Class; AND THAT IF any such business be now carried on in any situation within such distances, THEN, from the expiration of the period of Twenty Years next after the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation; AND THAT IF any person erect any building in the neighbourhood of any such business, contrary to this Act, THEN, on conviction thereof before Two Justices, he shall forfeit the sum of Fifty Pounds; OR IF any person establish anew any such business, or carry on any such business contrary to this Act, THEN, on conviction thereof before Two Justices, such person is hereby made liable to forfeit for every day during which such building shall remain near to such dangerous business, or during which such business shall be carried on, a sum not exceeding Fifty Pounds, as the said Justices shall determine; AND THAT it shall be lawful for the Justices also to award to the prosecutor such costs as shall be deemed reasonable; AND THAT IF the offender either fail or refuse to pay such penalty and costs immediately after such conviction, THEN they may be levied by distress of the goods and chattels of the person convicted; OR, IF there be no such distress, THEN such person shall be committed to the common gaol or house of correction for any time not exceeding Six Months, at the discretion of such

Distance from buildings.

New businesses.

Prohibition after Thirty Years.

Fifty Pounds penalty and costs.

Distress;

Or imprisonment.

such Justices, and that by warrant under the hands and seals of Two or more Justices of the Peace.

56. Use of means to mitigate noxiousness of trades.

PROVIDED always, AND BE IT ENACTED, with regard to any such offensive or noxious business, whether such trade or business be now carried on at a less distance than Forty Feet from any public way, or than Fifty Feet from any other building, or be hereafter carried on at a greater distance, yet so as to cause danger or annoyance, so far as relates to the mitigation of any penalty or punishment for unlawfully carrying on thereof, THAT IF any party charged with carrying on such business show that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, THEN it shall be lawful for such Justices to receive evidence thereof, and according to such evidence to mitigate the penalty as to them shall seem fit: PROVIDED further, with regard to such offensive or noxious business, so far as relates to the adoption of means to mitigate the injurious effects thereof, THAT IF it shall appear to such Justices that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate so far as possible the effects of such business, THEN although he hath not adopted all or the best means available for the purpose, yet it shall be lawful for such Justices assembled, and they are hereby empowered, to suspend the execution of their order or determination, upon condition that, within a reasonable time to be named, the party convicted do adopt such other or better means as to the said Justices shall seem fit, or before passing final sentence and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said court thought expedient for preventing the nuisance in future.

Adoption of means to mitigate after conviction.

57. Conviction and appeal as to certain trades not specified.

AND BE IT ENACTED, with regard to any business not hereinbefore enumerated by name as offensive, noxious or dangerous, or which shall not have been adjudged by any of Her Majesty's Superior Courts of Law at Westminster to be nuisances, and with regard to any building erected or continued within any such distance as aforesaid from any such business dangerous, noxious or offensive, so far as relates to a conviction in respect of any such business, and to an appeal from such conviction, THAT IF any person be dissatisfied with the decision of such Justices, AND IF, within Four Days after such decision, notice be given to the party appealed against, by or on behalf of such person of his intention to appeal; AND IF he enter into a recognizance with Two sufficient securities conditioned to try such appeal, and to abide the order of the Court, and pay to the party appealed against, such costs (if any) as shall be awarded against him, THEN it shall be lawful for such party so dissatisfied to appeal against such conviction to the Justices of the Peace at their General Quarter Sessions

Recognizances.

sions of the Peace, to be holden within Four Months after such conviction, for the place in which such premises shall be situate; AND

Sessions.

THAT IF the premises be situate within the city of London, and liberties thereof, THEN the appeal must be to the Quarter Sessions thereof, OR IF the premises be situate in the counties of Middlesex, Kent or Surrey, or in the city and liberties of Westminster, or in the liberties of Her Majesty's Tower of London, then to the Quarter Sessions thereof respectively, as the case shall be; AND THAT IF, within the above-mentioned period, such appellant shall have entered into such recognizance as herein required, and if within One Month thereafter he give notice of the grounds of such appeal, THEN it shall be lawful for such Justices, and they are hereby empowered, to proceed to hear and examine, on oath, into the causes and matters of such appeal, (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by the said parties as they think proper; AND the order, judgment and determination of the said Justices in their respective Sessions shall be binding and conclusive upon all parties.

Proceedings.

58.

Clause (C.) Trial by Jury at Quarter Sessions.

PROVIDED always, AND BE IT ENACTED, That if before conviction by Two such Justices, the party complained against desire to have the matter tried by a jury, and enter into a recognizance to try such matter without delay, and to pay all costs of trial if a verdict be found against him, THEN such matter may be tried at the next practicable Court of Quarter Sessions, or whensoever the Court shall appoint; AND THAT thereupon, or on the application of such party, it shall be lawful for the said Court of Quarter Sessions, and they are hereby authorized and required to issue their warrant or precept to the Sheriff or other proper officer (as the case may be), requiring him to return a competent number of persons qualified to serve on juries, according to the provisions of an Act made in the sixth year of the reign of his late Majesty King GEORGE the Fourth, "for consolidating and amending the Laws relative to Jurors and Juries;" AND THAT it shall be lawful for the said Court of Quarter Sessions, and they are hereby authorized and empowered by precept from time to time, as occasion may require, to call before them respectively every person who shall be thought proper or necessary to be examined as a witness before them on oath concerning the premises; AND THAT IF the said Court think fit, it shall be lawful for them, and they are hereby empowered to authorize the said jury to view the place in question in such manner as they shall direct, and to command the attendance of such jury, and of all such witnesses and parties, as shall be necessary or proper, until such affairs for which they are summoned shall be concluded; AND THAT the said jury shall inquire and try and determine by their verdict, whether the business in question be offensive or noxious, and whether the party in question have

Summoning of a Jury.

6 Geo. 4 c. 50.

Witnesses.

View of the Premises.

Verdict of Jury.

have done any act whereby the penalty hereby imposed in respect thereof has been incurred; AND THAT the said Court of Quarter Sessions shall give judgment according to such verdict, and shall award the penalty (if any) incurred by the defendant, and shall and may (if they see fit) award to either of the parties such costs as they may deem reasonable, which verdict, and the judgment, award, order or determination thereupon shall be binding and conclusive.

Judgment according to verdict.

And judgment to be binding.

59. Appeals to Quarter Sessions for Surrey and Kent.

AND BE IT ENACTED, with regard to any appeal in respect of a conviction for carrying on any such dangerous, offensive or noxious business, so far as relates to the place where such appeal is to be heard, THAT IF the appeal be to the General Quarter Sessions of the Peace for the county of Surrey or the county of Kent, THEN the jury (if any) to be impanneled, in pursuance of this Act, and all parties required to attend the Quarter Sessions for the said counties pursuant to such application, shall be impanneled and required to attend at some general or special adjournment of the said Quarter Sessions to be held within Six Weeks next after the original Sessions; AND THAT if the matter relate to the county of Surrey, then such adjournment shall be to some convenient place in the borough of Southwark in the said county; AND THAT IF the matter relate to the county of Kent, then such adjournment shall be to some convenient place in the borough of Greenwich in the said county; and such times and places shall be appointed by the Justices of the said counties respectively assembled at such original Sessions; AND THAT, from time to time, every further meeting of the said Sessions, for any thing to be done upon such application, shall be appointed at or within the space of Three Weeks from the last meeting; AND THAT, from time to time, it shall be lawful for the Justices of the Peace for the said counties of Surrey and Kent respectively, and they respectively are hereby empowered and required to make such adjournment and hold such Sessions as there shall be occasion.

To Sessions at Southwark.

To Sessions at Greenwich.

Further meetings.

Adjournments.

60. Common law and statutory remedies not affected.

PROVIDED always, AND BE IT DECLARED, with regard to any business which is contrary to any existing Act of Parliament, or otherwise contrary to law, so far as relates to the operation of this Act in that behalf, THAT, notwithstanding any thing in this Act contained, this Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on, within any limits or in any manner contrary to any public, local or private Act of Parliament, or otherwise contrary to law; nor to affect, abridge or restrain the right, the duty or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on, within the limits of this Act, any offensive, noxious or dangerous business.

61. Regulation or removal of trades deemed nuisances by purchase.

AND further, for the regulation or removal of any offensive, noxious or dangerous business now carried on; BE IT ENACTED, with regard to any such business, so far as relates to the purchase thereof, or of the premises wherein it shall be carried on, THAT IF Two-thirds in number of the inhabitant householders of any parish in which such business shall be carried on, present a memorial to Her Majesty in Council, praying the removal of such business from that parish or the neighbourhood thereof, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the memorialists, or by means of a rate to be levied on the inhabitants of the said parish, or such part thereof as may be affected by such business, THEN it shall be lawful for Her Majesty to refer the matter to the Lords of the Committee of Privy Council for Trade, to consider the character of such business, whether it be offensive, noxious or dangerous; AND IF it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, THEN it shall be lawful for Her Majesty, by Order in Council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate, as aforesaid, as to Her Majesty shall seem fit; and also to direct the Sheriff of the county or other proper person in the parish or liberty in which such business is carried on, to summon a jury according to the provisions of an Act made and passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of Woods to make a new Street from Coventry-street to Longacre, and for other Improvements in the Metropolis," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner and occupier of the premises for the restriction of the use of his buildings for such purpose; AND THAT IF, within Three Months after the verdict of such jury shall be given, and judgment thereon, the inhabitants of such parish or neighbourhood pay or tender such compensation, THEN, within Three Months from the payment or tender of such compensation, it shall cease to be lawful for the party carrying on such business to continue the same, and for any owner or occupier thereof either to carry on or to permit to be carried on such business in the same or any part of the same premises.

Memorial to Queen in Council.

Order for removal.

Compensation.

4 Vict., c.

Unlawful to continue such trades after purchase.

62. Funds for defraying compensation.

AND BE IT ENACTED, with regard to the funds for defraying such compensation, so far as relates to the raising thereof, THAT IF Her Majesty shall by such order direct the compensation to be paid by means of a rate, THEN it shall be lawful for the overseers of the parish to raise such sum as shall be necessary, either as a separate rate in the nature of poor's rate, or as part of the poor's rate on the inhabitants at large of such parish; OR IF in pursuance of the memorial

DISTRICT SURVEYORS.

memorial of the inhabitants of such part of the said parish as shall be affected by the said business, it be appointed by such Order in Council that such last-mentioned inhabitants do defray such compensation, THEN it shall be lawful for the said Overseers to raise such sum as shall be necessary for that purpose; AND THAT IF such rate be so levied either on the inhabitants at large of such parish, or on the inhabitants of such part thereof as aforesaid, THEN such rate may be levied and recovered as poor's rates are leviable and recoverable.

Levy of Rate.

63.
CLAUSE (D.) Exemption of Public Gas Works.

PROVIDED always, AND BE IT ENACTED, with regard to public works heretofore established within the limits of this Act, so far as relates to the operations of the provisions of this Act in reference to businesses dangerous in respect of fire or explosion, or offensive or noxious, THAT such provisions shall not be deemed to apply to any such public Gas Works.

SURVEYORS, THEIR DISTRICTS AND DUTIES.

64.
Appointment of Districts.

AND NOW, FOR THE PURPOSE of dividing the district to which this Act is to apply into several smaller districts, for the convenient execution therein of this Act, and for appointing competent Surveyors for superintending the same in each such district, and for regulating the duties of their office; BE IT ENACTED, with regard to such districts, so far as relates to the appointment and alteration thereof, THAT at any time after this Act shall come into operation, and from time to time, it shall be lawful for the Lord Mayor and Aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the Justices of the Peace for the county of Middlesex, the county of Surrey, the county of Kent, the city and liberties of Westminster, and the liberty of Her Majesty's Tower of London, in their General Quarter Sessions respectively, or any adjournment thereof, with reference to their respective counties, city and liberties, and they, respectively, are hereby empowered, BUT SUBJECT, nevertheless, to the consent of Her Majesty's Principal Secretary of State for the Home Department, to appoint the districts to which the respective places within their jurisdiction shall belong for the purposes of this Act, and to unite, enlarge and alter such districts for the more convenient distribution of the business.

65.
Appointment of Surveyors.

AND BE IT ENACTED, with regard to the Surveyors to be assigned to such districts, for the purposes of this Act, so far as relates to their appointment, THAT at any time after this Act shall come into operation, and from time to time, it shall be lawful for the said Lord Mayor and Aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the said Justices of the Peace in their General Quarter Sessions respectively, or any adjournment thereof, with reference to their respective

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counties, and they are hereby required, BUT SUBJECT, nevertheless, to the consent of Her Majesty's Principal Secretary of State for the Home Department, to nominate and appoint, as Surveyors, such and so many discreet persons, of the full age of Thirty Years, and properly educated and skilled in the art and practice of building, as they the said Lord Mayor and Aldermen and the said Justices shall think fit.

66. CLAUSE (E.) Practical Qualifications of Surveyors.

AND BE IT ENACTED, with regard to such Surveyors to be hereafter appointed under this Act, except District Surveyors appointed to new districts, so far as relates to the ensuring the possession of due scientific and practical qualifications, THAT it shall be the duty of the Official Referees, and of the Presideut and Vice-Presidents for the time being of the Royal Institute of British Architects, and of the President and Vice-Presidents for the time being of the Institution of Civil Engineers, and they are hereby authorized to examine any persons who may present themselves to be examined for the purpose of obtaining a certificate of qualification, with the view of becoming candidates for the office of Surveyors of Metropolitan Buildings of any district within the limits of this Act, AND THAT for that purpose it shall be lawful for such examiners from time to time to appoint such times as to them may seem fit, and from time to time to prescribe such course of examination as to them may seem fit, and that when such rules shall have been registered by the Registrar of Metropolitan Buildings, they shall continue to be in force until they shall be amended, altered or rescinded by other rules to be made by such examiners and so registered; AND THAT unless One Week before the election of a Surveyor for any district created by this Act, or for any district in respect of which the office of Surveyor may become vacant, there be produced by or on the part of any person being candidate for the said office, a certificate of such examiners, certifying that he has been examined, and that he was thereby found to be duly qualified for such office, it shall not be lawful for any Justices, by this Act empowered to appoint Surveyors, to appoint such person to be such Surveyor, and that if such person be so appointed, his election to such office shall be void.

Examiners to prescribe Rules.

Production of Certificates of Examination.

67. Tenure of office.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the tenure of their office, THAT it shall be lawful for every such Surveyor and he is hereby entitled to hold such his office of Surveyor during the pleasure only of the said Lord Mayor and Aldermen and of the said Justices respectively.

68. Functions generally.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their functions generally, THAT it shall be the duty of every such Surveyor, and he is hereby required—

To see that all the rules and directions of this Act are well and truly observed in and throughout his district; and for that purpose,

To

To proceed from time to time in due course, upon the receipt of any notice, or if from ignorance or neglect, or from any other circumstance, notice of any work intended to be done have not been given, then, upon such work being observed by or being made known to him, to inspect the works intended to be done, or which shall have been commenced; and to cause all the rules and directions of this Act in respect thereof to be strictly observed; and also,

To attend and perform every thing required of him by this Act, whether with or without notice; and also,

To inspect ruinous buildings and projections in danger at all times when needful, and to take all necessary measures thereupon; and also,

To survey all buildings built, rebuilt, enlarged or altered by or under the superintendence of a district Surveyor within any other district to which he shall be appointed by the official referees for that purpose; and also,

To cause a book for registering all notices, informations and complaints to be at all times kept at his office, and to enter in such book every notice, information or complaint which shall be delivered or made to him, and any proceeding thereon by him taken.

69. Qualifications and Disqualifications.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their qualifications and to their disqualifications, THAT at the time of his appointment, every such person appointed to be a Surveyor must be of the full age of Thirty Years; AND THAT during the time that any such person shall act as a Justice of the Peace for the county in which his district shall be situated, it shall not be lawful for him, and he is hereby disqualified from holding the office of a Surveyor or of Deputy or an Assistant Surveyor for any district under this Act.

Not to act as a Justice of Peace.

70. Continuance of present Surveyors. 14 Geo. 3, c. 78. (1774.)

AND BE IT ENACTED, with regard to the Surveyors who, at the time of this Act coming into operation, shall have been appointed under the Act of the fourteenth year of the reign of King GEORGE the Third, mentioned in the Schedule (A.), hereto annexed, so far as relates to their continuance in office, and the application of this Act to them, THAT until they shall be removed, it shall be lawful for them, and they are hereby entitled, to continue to be the Surveyors for the purposes of this Act, and for the districts assigned to them at the time this Act shall come into operation, but subject to such alteration of such districts as may be made by virtue of any power in that behalf, and to act in all respects as if they had been appointed under this Act; AND THAT every provision in this Act applicable to district Surveyors, so far as relates to the exercise of the office of Surveyor, and to their remuneration in that behalf, shall apply to them.

Subject to this Act.

71. Declaration of official fidelity.

AND BE IT ENACTED, with regard to every Surveyor hereafter appointed, so far as relates to making a declaration of official fidelity, THAT, before any such Surveyor shall act in pursuance of this Act, it

DISTRICT SURVEYORS.

shall be his duty, and he is hereby required, to make a declaration of official fidelity, which must be administered by the said Lord Mayor and Aldermen in their Court of Aldermen, or by the said Justices of the Peace in their respective General Quarter Sessions, and must be in the form or to the effect following; that is to say,—

"I, A. B., being one of the Surveyors appointed in pursuance of an Act made and passed in the year of the reign of Her Majesty Victoria the First, intituled, "An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood, and commonly called the Metropolitan Buildings Act," do solemnly declare, That I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my power, skill and ability, endeavour to cause the several provisions of the said Act to be strictly observed, and that without favour or affection, prejudice or malice to any person whomsoever."

Penalty for acting before Declaration made.

AND THAT IF, before making such declaration, any such Surveyor act in pursuance of this Act, THEN, on conviction thereof, he shall be liable to pay, for every day during which he shall so act before making such declaration, the sum of Five Pounds.

72. Regulation of duties.

AND BE IT ENACTED, with regard to the Surveyors, so far as relates to the regulation of their official duties, THAT it shall be the duty of every Surveyor for the city of London and the liberties thereof,

Offices.

and he is hereby required, to have an office, at his own expense, in such public situation as shall be approved by the Lord Mayor and Aldermen; AND THAT it shall be the duty of every other Surveyor, and he is hereby required, to have an office, at his own expense, in some central part of the district to which he shall be appointed, as shall be approved by the Justices of the Peace in Quarter Sessions,

Attendance.

within whose jurisdiction he shall act; AND THAT it shall be the duty of every such Surveyor, and he is hereby required, by himself, or by some other person in his behalf, to attend at his office every day (Sundays, Christmas-day and Good Friday excepted) from Ten of the clock in the morning till Four of the clock in the afternoon; AND

Return of name and residence.

THAT immediately upon his appointment, and from time to time, upon every change of his residence, or of his place of business, or oftener if required, it shall be the duty of every Surveyor, and he is hereby required, to make a return to the Registrar of Metropolitan Buildings, and to the overseers of the poor of every parish or place within his district, of his name and place of abode and the place where such office shall be.

73. Surveyor pro-tempore.

AND BE IT ENACTED, with regard to such Surveyor, so far as relates to the appointment of a deputy or substitute in certain cases, THAT IF any Surveyor shall be prevented by illness, or any other unavoidable

avoidable circumstances, from attending to the duties of his office, THEN forthwith it shall be his duty and he is hereby required, BUT SUBJECT to the previous consent and approval of the Official Referees, to appoint some other Surveyor, duly qualified as aforesaid, as his deputy to perform all such his duties for so long a time as he shall be so prevented from executing them; AND THAT thereupon, during such time as aforesaid, it shall be the duty of such deputy Surveyor and he is hereby required to perform all the duties of such Surveyor, and that in all respects as if he were the Surveyor appointed or confirmed under this Act; AND THAT it shall be lawful for such deputy Surveyor and he is hereby entitled to receive the fees payable in respect of the services so performed by him in such district.

Duty of Deputy.

Fees.

74. Vacancies.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the filling up of vacancies, THAT IF any vacancy shall happen through the death or removal of any Surveyor, THEN, within One Month thereafter, it shall be the duty of the Lord Mayor and Aldermen or of the Justices of the Peace in General Quarter Sessions, as aforesaid, and they are hereby respectively required, to appoint a successor as herein directed; AND THAT, in the meantime, it shall be lawful for the Official Referees to direct the Surveyor of any one or more of the other districts to perform the duties of Surveyor for the vacant district; or if no district Surveyor can be spared from his own district, to appoint some other competent person duly qualified as aforesaid for that purpose; AND THAT every such Surveyor is hereby entitled to receive the fees payable in respect of the services so performed by him in such vacant district.

Occasional services.

Fees therefor.

75. Regulation of business.

AND BE IT ENACTED, with regard to the Surveyors, so far as relates to the regulation of their business, THAT IF it shall appear to the Official Referees that the district appointed for any Surveyor is too extensive for the prompt discharge of his functions, THEN it shall be their duty to represent such their opinion to the Lord Mayor and Aldermen of the city of London, or to the Justices of the Peace with whom the appointment of a Surveyor for that district may rest; and for that purpose to transmit with their letter of representation a transcript of their "Register of Notices," with the results; AND THAT IF at any time it appear to such Official Referees, that on account of the pressure of business in any district, or on any other account, the Surveyor of that district cannot discharge his duties promptly, as regards the builders and others engaged in building operations, and efficiently as regards the purposes of this Act, THEN it shall be lawful for such Official Referees, and they are hereby empowered, to appoint any other district Surveyor to assist the Surveyor of such district in the performance of his duties; OR IF no district Surveyor can be spared from his own district, then to appoint some other competent person to give such assistance; AND THAT with regard to all buildings surveyed

Assistant Surveyors.

Duties of Assistants.

by such Assistant Surveyor, and all other acts done by him, it shall be the duty of such Assistant Surveyor to make returns, and to act in all respects as if he had been appointed by the said Lord Mayor and Aldermen, or by the said Justices, to be the Surveyor of such district; AND THAT every such person shall be entitled to receive the fees payable in respect of the services so performed by him.

Fees.

76. Superintendence of Surveyors.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the supervision of buildings, built, rebuilt, enlarged or altered by or under his professional superintendence, THAT it shall not be lawful for any such Surveyor to survey any such building for the purposes of this Act; BUT THAT such building must be surveyed by another district Surveyor, or by another Surveyor to be appointed by the Official Referees for that purpose.

77. Surveyor's Fees.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their remuneration, THAT UPON the expiration of One Month after the roof of any building erected and surveyed under this Act, shall have been covered in, and all the walls thereof have been built to their full heights, and the principal timbers and floors shall have been fixed in their places, and UPON the expiration of Fourteen Days after the completion of any addition, alteration and repair, and UPON the expiration of Fourteen Days after each special service shall have been performed, and UPON delivering to the owner of the building an account of the fees incurred, and UPON tendering a receipt, signed with his christian and surname, and stating the amount of such account and the work done, it shall be lawful for the Surveyor, and he is hereby entitled to receive from the builder, or from the owner, or from the occupier of the building for his time and trouble and expenses in causing the rules, regulations and directions of this Act to be observed, the several fees specified in the Schedule of Fees (L.), hereunto annexed; AND THAT IF, on tender of such receipt, any builder, owner or occupier who shall become liable to pay any such fee shall refuse to pay the same, THEN, upon application to any Justice of the Peace, it shall be lawful for such Justice, and he is hereby required to issue his warrant to levy the amount of such fee by distress and sale of the goods and chattels of the party so refusing, in like manner as poor's rates are by law recoverable, and if such fee be paid by the occupier, he shall be entitled to recover the amount thereof from the owner: PROVIDED always, THAT IF the work in respect of which such fee shall become payable have not been done in every respect agreeably to the directions of this Act, THEN it shall not be lawful for any Surveyor to receive such fee; AND THAT IF he shall so receive it, THEN, upon application to the Official Referees by any party interested in the building in respect of which such work shall have been executed, and upon its appearing that such fee has been received wrongfully, it shall be lawful for such Official

Refusal of payment.

Fees to be paid only for work done agreeably to Act.

Refunding fees.

Official Referees, and they are hereby authorized (if they think fit) to order the said Surveyor to refund such fees.

78. Surveyor's Returns.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to a return of the business done by them, and to the inspection thereof, THAT, within Seven Days after the first day of every month, it shall be the duty of every Surveyor, and he is hereby required to make a return to the Registrar of Metropolitan Buildings, enumerating therein the number and nature of all the several works executed within the previous month under his supervision, and the fees paid to him for the same, and also a copy of the list or register of notices served upon him, with the results thereof, and to keep in his office a copy of such return; AND THAT IF any person shall apply to inspect the same, THEN on the payment of One Shilling, it shall be open for inspection, at all reasonable times; AND with regard to such return, so far as relates to the authentication and effect thereof, THAT every such return must be signed by such Surveyor, and if so signed, it shall be deemed to be a certificate that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him; BUT no such return shall be any protection from, or hindrance to, any future proceedings in respect of works not executed according to the provisions of this Act, though the same may have been done before the making of such return.

Inspection of returns.

Authentication and effect of returns.

79. Penalty for extortion, negligence or unfaithfulness.

AND BE IT ENACTED, with regard to every Surveyor, so far as relates to the discharge of his duties, THAT IF any Surveyor receive any higher fee than he shall be entitled to under this Act, OR IF in his capacity of Surveyor he receive a fee for any act or omission in respect of which he is not entitled to receive any remuneration, OR IF he refuse to refund any fee wrongfully received by him, in respect whereof the Official Referees shall have made an order to that effect, OR IF at any time he wilfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, AND IF, upon complaint thereof, such conduct be made to appear to the Lord Mayor and Aldermen of the said city of London, or the Court of Quarter Sessions having jurisdiction over the district for which he shall act for the time being, THEN it shall be lawful for the said Lord Mayor and Aldermen, or the said Court of Quarter Sessions, as the case may be, and they are hereby respectively required, EITHER to fine such Surveyor in such sum of money not exceeding Fifty Pounds as they shall think fit, OR to discharge him forthwith from his said office; AND THAT IF for any such cause such Surveyor be discharged, he shall be incapable of being again appointed a Surveyor for the purposes of this Act.

Incapacitation of Surveyors.

OFFICIAL REFEREES.

80. Appointment of two Official Referees.

AND NOW, FOR THE PURPOSE of providing for the appointment of competent Official Referees to superintend the execution of this Act throughout all the districts to which it is applicable, and also to determine sundry matters in question incident thereto, as well as to exercise, in certain cases, a discretion in the relaxation of the fixed rules and directions of this Act, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business; BE IT ENACTED, with regard to the Official Referees, so far as relates to their appointment, to their qualifications and to the tenure of their office, THAT it shall be lawful for Her Majesty's Principal Secretary of State acting for the Home Department, and he is hereby empowered to appoint Two Persons, being Architects or Surveyors, to be Official Referees of Metropolitan Buildings, and from time to time, as he shall think proper, to remove such Official Referees, and in their place to appoint other persons so qualified; AND THAT while such person shall so hold the office of Official Referee, it shall not be lawful for such person, and he is hereby expressly prohibited to act as Surveyor, either alone or with any partner, or by an agent.

Tenure of Office.

Not to act as Surveyors.

81. Their Functions generally.

AND BE IT ENACTED, with regard to such Official Referees, so far as relates to their functions generally, THAT it shall be the duty of such Official Referees and they are hereby required to superintend the execution of this Act, by the several district Surveyors already existing, or hereby authorized to be appointed, and to perform the several matters to them respectively assigned by the provisions of this Act, and to determine all questions referred to them, whether expressly by this Act, or at the instance of any one or more of the parties concerned.

Evidence on Oath.

82. Matters of reference.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to their jurisdiction, THAT IF any doubt, difference or dissatisfaction, in respect of any matter within the limits of this Act, arise between any parties concerned, or between any party and any surveyor, or between any two surveyors, as to any act done or to be done in pursuance of this Act; or as to the effect of the provisions thereof in any case; or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect; and particularly as to whether the requirements implied in terms of qualification, applied to sites, to soils, to materials or to workmanship or otherwise, and denoting good, sound, fireproof, fit, proper, or sufficient, are fulfilled in certain cases; or as to the district in which any building, matter or thing is to be deemed to be situate, especially in cases where such building, matter or thing is partly in one district and partly in another; or as to the expenses to be borne by the respective

respective owners of premises parted by the same party-walls, or the proportions thereof; or as to the proportions of the expense to be borne by the occupier, or by the owners of premises, in respect of any work executed, or any other matter whatever; THEN it shall be lawful for any party concerned, and he is hereby entitled, to require the Official Referees to determine such matter, BUT so that such requisition be made in writing, and that it set forth, either generally or otherwise, the matters in respect of which the determination of the Official Referees is required; AND THAT the determination of such Referees, or of One of such Referees, with the assent of the Registrar of Metropolitan Buildings, as to all or any of the points in difference on which such Referees shall make their award, and as to the costs, charges and expenses of such reference, shall be binding on all parties to such reference.

One Referee may act.

83.
Award and powers of Referees.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to their authority in respect of any reference to them, and to the effect of their award upon the rights and interests of the owners and occupiers of property, THAT it shall be lawful for such Referees and they are hereby empowered to exercise all such powers of arbitrators as they would have had in case they had been appointed under an order of Her Majesty's Court of Queen's Bench at Westminster; AND THAT if such award be given in writing, and be sealed by the official seal of the Registrar of Metropolitan Buildings, it shall be as effectual as if made under an order of reference by such Court, and shall be enforced by the said Court in all respects as if made under an order of such Court; AND THAT it shall be binding and conclusive against every person, including The Queen's Majesty, Her heirs and successors, claiming any estate, right, title, trust, use or interest in, to or out of the said premises or any part thereof, either in possession, reversion, remainder or expectancy, and against every other person whomsoever.

Legal effect of awards.

Effect as to persons.

84.
CLAUSE (F.) Revocation of authority of Official Referees.
Not to affect the award by the Official Referees.

AND BE IT ENACTED, with regard to any reference to the said Official Referees, so far as relates to the revocation of their authority, THAT the power and authority of the Official Referees shall not be revocable by any party to such reference without the consent of all parties thereto; AND THAT although any party shall not attend upon such reference, it shall be lawful for such Official Referees to proceed with the reference and to make their award.

85.
CLAUSE (G.) Taking of Evidence by the Official Referees.

AND BE IT ENACTED, with regard to such reference, so far as relates to the evidence of any matter thereof, THAT it shall be lawful for the Official Referees, and they are hereby empowered by their summons in writing, sealed with the seal of office of the Registrar of Metropolitan Buildings, to require the attendance of any person who may be able to give evidence in the matter of any refer-

OFFICIAL REFEREES.

ence to them, and to require by such summons the production of any documents to be mentioned therein; AND THAT IF in addition to the service of such summons an appointment of the time and place of attendance in obedience thereto, signed by one at least of the Official Referees before whom the attendance is required, be also served either together with, or after the service of, such summons, THEN if the party so summoned do not attend in obedience thereto, such party shall be liable to be proceeded against as for a contempt of court; AND THAT every person whose attendance shall be required shall be entitled to the like conduct money and payment of expenses as for and upon attendance at any trial; AND THAT no person shall be compelled to produce under any such summons any writing or other document that he would not be compelled to produce at a trial, or to attend on more than two consecutive days to be named in such summons; AND THAT it shall be lawful for the Official Referees, and they are hereby respectively authorized and required to administer an oath to such witnesses as may come before them, or in cases where affirmation is allowed by law, instead of an oath, to take their affirmation; AND THAT IF upon such oath or affirmation, any person making the same, wilfully and corruptly give false evidence, THEN every person so offending shall be deemed to be guilty of Perjury.

Appointment of time and place.

Compensation for attendance.

Production of documents.

Administration of Oaths.

Penalty for Falsehood.

86. Effect of awards as evidence.

AND BE IT ENACTED, with regard to such award, so far as relates to the effect thereof as evidence of the matter thereof, THAT IF on the trial or hearing of any cause or matter in any court of law or equity, or elsewhere, any copy of an award, signed and sealed with the seal of the said Registrar, be produced, THEN it shall be the duty of all Judges, Justices and others, and they are hereby required to receive the same as primâ facie evidence of the matters therein contained.

87. Declaration of official fidelity.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to the declaration of official fidelity, THAT before any Official Referee shall act in pursuance of his appointment, it shall be his duty and he is hereby required to make the following Declaration, to be administered by the Chief Baron or any other of the Barons of Her Majesty's Court of Exchequer; that is to say,—

"I, A. B., do solemnly declare, That I will diligently, faithfully and impartially execute the duties of an Official Referee in relation to matters arising under the provisions of the Act made and passed in the year of the reign of Her Majesty VICTORIA the First, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood, and commonly called 'The Metropolitan Buildings Act.'"

AND

OFFICIAL REFEREES.

88. Regulation of business of the Official Referees.

AND BE IT ENACTED, with regard to such Official Referees, so far as relates to the regulation of the business of their office, THAT when any matter is by this Act required, directed or permitted to be done by the Official Referees, the same may be done by either of them, with the assent of the Registrar of Metropolitan Buildings, unless express provision to the contrary be made, and if done by any One of them with such assent, it shall be as valid and effectual as if done by both of them; AND THAT, subject to such restrictions and regulations as may be made in that behalf by the Commissioners of Works and Buildings it shall be lawful for the Official Referees to appoint any one of their number, under their hands and the seal of the Registrar of Metropolitan Buildings, to make any inquiry or any survey which shall appear to them either necessary or expedient in order to enable them to determine any matters in reference.

Official Referees may delegate powers, and revoke them.

REGISTRAR OF METROPOLITAN BUILDINGS.

89. Appointment of Register.

AND, for the purpose of duly recording relaxations of the requisitions of this Act, made in pursuance of the provisions hereof in that behalf, and of providing for the revision from time to time both of such relaxations and requisitions, and of providing against the partial exercise of the powers of this Act, and for the more effectually providing for the due recording of the acts of the Official Referees, and for exercising a due control thereon; BE IT ENACTED, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby authorized and required to appoint a Registrar of Metropolitan Buildings; AND THAT such Registrar shall hold his office during the pleasure of the said Commissioners; AND THAT, subject to the provisions of this Act, it shall be lawful for the said Commissioners to make rules for regulating the execution of the duties of the office of the said Registrar; AND THAT it shall be the duty of such Registrar to keep a seal, and to affix such seal to all documents made by the said Official Referees, and required to be sealed; and to keep all the documents and records relating to the business of their office, and to register the same: PROVIDED always, with regard to such Registrar, so far as relates to the affixing the seal of office to any document, THAT IF it shall appear to the said Registrar that any such documents are contrary to law, or not complete in any of the requisite forms, or beyond the competence of the said Official Referees, either with regard to the provisions of this Act or any rules or regulations prescribed for their guidance, by the said Commissioners of Works and Buildings, THEN it shall be the duty of the said Registrar to refuse to affix the seal; AND THAT thereafter, if the said Official Referees shall so require, it shall be his duty and he is hereby required to report the matter and the particular grounds and reasons for his refusal to the said Commissioners; AND THAT upon the receipt of such report it shall be lawful for the said Commissioners to authorize the said Registrar to affix the seal or to confirm his

Tenure of office.

Rules of Office.

Seal of Office.

Use of Seal of Office.

Report of objections by Registrar.

Authority of Commissioners of Woods.

his refusal: PROVIDED always, with regard to such office of Registrar, so far as relates to the execution of his duties in certain events, THAT IF such Registrar be ill or otherwise unable to discharge the duties of his said office, OR IF he be absent, THEN it shall be lawful for the said Commissioners of Works and Buildings to appoint some other person to act in his behalf, and to assign to such person such part of the remuneration of the said Registrar, or otherwise to remunerate him as the Lords of the Treasury shall appoint in that behalf.

Interim Registrar.

90. Declaration of official fidelity.

AND BE IT ENACTED, with regard to the Registrar, so far as relates to the declaration of official fidelity, THAT before any Registrar shall act in pursuance of his appointment, it shall be his duty and he is hereby required to make the following Declaration, to be administered by the Chief Baron, or any other of the Barons of Her Majesty's Court of Exchequer; that is to say,—

"I, A. B., do solemnly declare, That I will diligently, faithfully and impartially execute the duties of Registrar in relation to matters arising under the provisions of an Act made and passed in the year of the reign of Her Majesty VICTORIA the First, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood,' and commonly called 'The Metropolitan Buildings Act.'"

91. Custody and inspection of Records of Official Referees.

AND BE IT ENACTED, with regard to such awards, certificate and other records of the said Official Referees, so far as relates to the custody and the inspection thereof, THAT all such awards, certificate and other documents relating to the business of their office shall be kept in the office of the Registrar of Metropolitan Buildings; AND THAT IF, for the purpose of evidence or otherwise, any party require a copy of such award, or to inspect the same, THEN, on payment of the expense thereof, and of such fees as may be appointed in that behalf, it shall be lawful for such party, and he is hereby entitled to demand from the Registrar an inspection thereof, or a copy thereof or extract therefrom; AND THAT, on such payment and demand, it shall be the duty of such Registrar, and he is hereby required to give, under his hand and seal of office, a copy of any such award, or any other document, to the person so demanding the same.

Copies of awards.

Authentication of copy, and fees therefor.

92. Office of Registrar, and regulation of business.

AND BE IT ENACTED, with regard to the Registrar of Metropolitan Buildings, so far as relates to his office or place of business, and to the regulation of the business thereof, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby required to appoint, in some central and convenient situation within the city of London or the city of Westminster, an office for carrying on the business of the Registrar of Metropolitan Buildings, and registering

tering all documents relating to such business; and in such office it it shall be the duty of such Registrar and he is hereby required—

To keep a Register of all matters referred to the Official Referees, and otherwise of all matters which shall come under their cognizance in pursuance of this Act; and also,

To keep and preserve all documents connected with the duties of Official Referees; and also,

To receive all notices requiring any act to be done by them, and to file and number them in the order in which they are received;

93. Registration of awards, &c.

AND BE IT ENACTED, with regard to all the awards and certificates, and all documents relating to the business of the Official Referees, so far as relates to the registration thereof, THAT the same shall be registered not only chronologically in the order in which they are received, but according to the subject-matters thereof, and also according to the order of and in relation to the provisions of this Act.

94. Remuneration of Official Referees and Registrar.

AND BE IT ENACTED, with regard to such Official Referees and Registrar, so far as relates to their remuneration, THAT it shall be lawful for Her Majesty to grant to each of such Official Referees and the said Registrar a salary not exceeding One thousand Pounds by the year, in Four equal quarterly payments; AND THAT IF any such Official Referee or such Registrar shall be appointed, or shall die, resign or be removed from office, in the interval between two quarterly days of payment, THEN he shall be entitled to a proportionate part of the salary for the period of such interval during which he shall hold such appointment.

Quarterly payments.

95. Funds for defraying expenses of the Official Referees and Registrar.

AND FORASMUCH as the services of such Official Referees and of such Registrar, will be employed chiefly on behalf of the localities comprised within the limits of this Act, it is expedient to provide for the payment of a portion of their salaries by means of a county rate, or by a rate in the nature of a county rate on such localities, in proportion to the assessed value of inhabited houses and buildings therein, or as near thereto as may be; Now, for that purpose, BE IT ENACTED, with regard to such Official Referees and Registrar, so far as relates to the payment of a portion of their salaries out of local funds, THAT it shall be lawful for the Lord Mayor and Aldermen of the city of London, and they are hereby required, to direct the Chamberlain of the said city, and for the Justices of the Peace for the several counties of Middlesex, Surrey and Kent, and they are hereby respectively required to direct the treasurer of such respective counties to pay half-yearly to or into the hands of the Cashier of the Commissioners of Works and Buildings, on account of the said Official Referees and of the said Registrar, the several sums of money hereafter

REGISTRAR OF METROPOLITAN BUILDINGS.

mentioned, as and by way of contribution to such salaries; that is to say,—

The city of London, and the Liberties and the Suburbs thereof - -	the sum of	£. 100
The county of Middlesex - - - -		1,000
The county of Surrey - - - - -		320
The county of Kent - - - - -		30
		£. 1,500

AND to cause the same to be levied by a rate upon the several parishes and places within the limits of this Act, in such amounts as to such Justices may seem proper, having regard to the assessed value of the inhabited houses and the buildings in such places respectively, in addition to the county rate in respect thereof; AND THAT for the purpose of levying such sums, they shall be deemed to be part of the county rate, and leviable by all the ways and means by which a county rate is leviable, and subject in all respects to the legal incidents of a county rate.

Nature of Levy.

96. Payments of Official Referees and Registrar out of the Consolidated Fund.

AND BE IT ENACTED further, with regard to the Official Referees and Registrar, so far as relates to the payment of the balance of their Salaries, *THAT such balance shall be payable and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.*

97. Fees of Office, and Application thereof.

AND BE IT ENACTED, with regard to the fees payable to the Registrar, so far as relates to the appointment thereof, and to the application thereof, THAT from time to time it shall be lawful for the Commissioners of the Treasury to appoint such fees to be paid in respect of the services to be performed by the said Official Referees or by the said Registrar, as shall be deemed requisite to defray the expenses of the said office or incident to such services, and the salaries or other remuneration of any persons employed under the Registrar in the execution of this Act, with the sanction of the Commissioners of the Treasury, and which are not otherwise provided for by this Act; AND THAT the balance, if any, shall be carried to the Consolidated Fund of the United Kingdom, and be paid accordingly into the receipt of Her Majesty's Exchequer at Westminster; AND THAT it shall be lawful for the Commissioners of the Treasury to regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for; AND THAT, it shall be the duty of the Registrar and he is hereby required, to cause a List of the Fees so appointed by virtue of this Act to be fixed up in some conspicuous part of his office.

Balance to Consolidated Fund.

Regulations as to receipt, custody and accounts.

List of Fees to be hung up.

LEGAL PROCEEDINGS.

98. Informalities in distress.

AND NOW, FOR THE PURPOSE of regulating sundry legal proceedings, BE IT ENACTED, with regard to any distress for any sum

sum of money to be recovered by virtue of this Act, so far as relates to the remedying of any damage occasioned by any irregularity therein or in reference thereto, THAT notwithstanding there be any defect of form in the proceedings relative to any such distress, neither the distress itself shall be deemed unlawful, nor shall the party making the same be deemed a trespasser ab initio; BUT THAT IF any irregularity be committed by any party, THEN, subject to the conditions in this Act prescribed with regard to actions brought for any thing done in pursuance thereof, it shall be lawful for the person aggrieved by such irregularity and he is hereby entitled to recover full satisfaction for the special damage only; AND THAT by action on the case, and not by any other action whatsoever.

Action for damages.

99. Tender of amends.

AND BE IT ENACTED, with regard to any action for any irregularity or other proceeding, so far as relates to the tender of amends or payment of money into court in respect thereof, THAT IF, before such action be brought, the party who committed or caused to be committed any such irregularity or wrongful proceeding, make or cause to be made tender of sufficient amends, THEN the plaintiff shall not be entitled to recover in such action; AND THAT although such tender shall not have been made, yet IF at any time before issue joined the court in which such action shall be depending, or a Judge of any of the superior courts grant leave, THEN it shall be lawful for the defendant to pay into the court any sum of money, by way of compensation or amends, in such manner and under such regulations, as to the payment of costs and the form of pleading, as is and are customary and in force in the said superior courts.

Payment of Compensation into Court.

100. Recovery of money under awards.

AND BE IT ENACTED, with regard to every sum of money by this Act, or by any award or certificate or other proceeding in pursuance of or in accordance with this Act, charged upon any person in respect of any work done in pursuance of or in accordance with this Act, so far as relates to the recovery of such sum of money, THAT it shall be lawful for the party claiming the same to proceed in a summary way before any Two Justices of the Peace, OR IF the matter arise within the district of the Metropolitan Police, THEN before any Police Magistrate having jurisdiction within that district; AND THAT, on proof of such sum of money being still due, it shall be lawful for such Justices or such Police Magistrate, and they respectively are hereby required to issue a warrant to levy the amount thereof, and also the costs of the proceeding to be levied by distress of the goods and chattels of the person in default; AND IF such person have no goods and chattels whereon to distrain, OR IF such goods and chattels be insufficient for that purpose, THEN it shall be lawful for such Justices or Police Magistrate, or for any other Justice or Police Magistrate,

Distress.

Imprisonment.

to commit the person in default until the amount of such sum so due, and of such costs, shall have been fully paid.

101. Procecution of offences.

Complaint.

Summons.

Compulsory appearance.

Distress.

Imprisonment.

AND BE IT ENACTED, with regard to all offences against the provisions of this Act for which no other proceeding is provided, so far as relates to the prosecution thereof, THAT it shall be lawful to proceed by complaint before any One Justice of the Peace, or before a Police Magistrate as aforesaid; AND THAT it shall be lawful for such Justice to summon the party against whom such complaint shall be made; AND THAT IF such party fail to appear in pursuance of such summons, THEN it shall be lawful for such Justice or any other Justice, to issue a warrant under his hand and seal, to compel the appearance of such party; AND THAT on conviction of the offender before Two Justices, or before any police magistrate, it shall be the duty of such Justices or magistrate, and they are hereby required, to cause the amount of the penalty hereby imposed in respect of such offence, and of the costs of any such proceeding in respect of such offence, to be levied by distress of the goods and chattels of the offender; OR IF he have no goods and chattels whereon to distrain, OR IF they be insufficient for that purpose, THEN it shall be lawful for such Justices or magistrate, or for any other Justice or magistrate, and they are hereby empowered, either on failure of such distress or in the first instance, to commit the offender till he shall have paid the full amount of such penalty and such costs.

102. Removal of orders, &c. into superior Courts; Certiorari.

AND BE IT ENACTED, with regard to every order which shall be made by virtue of or under this Act, and to any other proceeding to be had touching the conviction of any offender against this Act (except proceedings touching the conviction of any offender for carrying on a trade or business offensive, noxious or dangerous contrary to this Act, otherwise than those hereinbefore specified), THAT it shall not be lawful for any person to remove such order or other proceeding by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster; and every such order and other proceeding is hereby declared not to be so removable.

103. CLAUSE (H.) Appeal from Convictions as to Penalties.

AND BE IT ENACTED, with regard to any conviction for any offence in respect of which a penalty of Fifty Pounds or upwards is by this Act imposed, so far as relates to the appeal from any such conviction in respect thereof, THAT IF any party be dissatisfied with the decision of the Justices in any case in which such penalty may be proceeded for, and if within Four Days after such decision, notice be given by or on behalf of such party of his intention to appeal against such decision, and of the grounds of such appeal; AND IF he enter into a recognizance with Two sufficient sureties conditioned to prosecute such appeal,

appeal, and to abide the order of the Court, and to pay to the party appealed against such costs (if any) as shall be awarded against him, THEN it shall be lawful for such party so dissatisfied to appeal against such conviction to the Justices of the Peace at their Quarter Sessions of the Peace, to be holden within Four Months after such conviction; AND THAT IF within the above-mentioned period such appellant have entered into such recognizance as is herein required, THEN it shall be lawful for such Justices, and they are hereby empowered to proceed to hear and examine on oath into the cause and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by the said parties as they think proper, and the order, judgment and determination of the said Justices shall be binding and conclusive.

Proceedings thereon.

104. Limitation of actions for penalties.

AND BE IT ENACTED, with regard to every penalty or forfeiture incurred under this Act, so far as relates to the limitation of proceedings for the recovery thereof, THAT IF, within Six calendar Months next after such penalty or forfeiture shall have been incurred, an action or prosecution be not brought or commenced against the person liable in respect thereof, THEN thereafter it shall not be lawful for any person to bring such action or commence such proceeding in respect of such penalty or forfeiture.

105. Recovery of penalties.

AND BE IT ENACTED, with regard to every such penalty or forfeiture, so far as relates to the recovery and the appropriation thereof, THAT it shall be lawful for any party to sue or proceed for the same; AND THAT if such penalty be not otherwise specifically appropriated, THEN the person so suing or proceeding shall be entitled to receive the amount thereof for his own benefit.

Appropriation.

106. Regulation of actions against persons acting under this Act.

AND, for regulating proceedings against persons acting in pursuance of this Act; BE IT ENACTED, with regard to any action or suit against any person in respect of any act or thing done or intended to be done in pursuance of this Act, so far as relates to the limitation thereof, and to the notification thereof to the offending party, and to the venue thereof, and to the pleadings therein, and to the evidence of the matters thereof, and to the verdict therein, and to the judgment of the court thereon, and to the costs of such action, and to the recovery of such costs, THAT, after the expiration of Six Months next after the fact committed, it shall not be lawful to bring any such action or suit against any person in respect of any such act; AND THAT if Twenty-one Days at the least before the commencement of the action or suit, notice in writing of an intention to bring such action or suit be not given to every person against whom such action or suit shall be brought,

Limitation of action.

Notice of action.

LEGAL PROCEEDINGS.

brought, THEN it shall not be lawful for any person to bring any such action or suit against any person in respect of any such Act; AND THAT IF the cause or matter of any such action or suit arise within the said city of London or the liberties thereof, THEN such action or suit must be laid in the city of London, and not elsewhere; AND

Venue in London.

THAT IF the cause of any action or suit arise in any part of the limits aforesaid, out of the said city of London and liberties thereof, THEN it must be laid and tried in the county of Middlesex, and not elsewhere; AND THAT in every such action or suit it shall be lawful

Venue in Middlesex.

for the defendant, and he is hereby entitled, to plead the general issue; and at the trial to be had thereof, to give this Act and the special

Plea and evidence.

matter in evidence, and to prove that the matter or thing for which such action or suit is brought was done in pursuance and by the

Verdict.

authority of this Act; AND THAT IF, upon the trial of such action, it appear that the said matter or thing has been so done in pursuance of this Act, OR IF it appear that such action or suit was brought before the expiration of Twenty-one Days after such notice given as aforesaid, OR IF it appear that sufficient satisfaction was made or tendered before such action was brought, OR IF upon plea of payment of money into court, it shall appear that the plaintiff has not sustained damages to a greater amount than the sum paid into court, OR IF any such action or suit be not commenced within the time herein for that purpose limited, OR IF it be laid in any other county or place than as aforesaid, THEN and in every such case it shall be the duty of the jury, and they are hereby required to find

Costs.

for the defendant; AND THAT IF a verdict be found for the defendant, OR IF the plaintiff in any such action or suit become nonsuited, or discontinue or suffer a discontinuance of any such action or suit, OR IF judgment be given for the defendant therein, on demurrer or by default or otherwise, THEN the defendant shall be entitled to have judgment to recover full costs of suit, and to such remedy for recovering the same as any defendant shall have by law.

107. Costs of actions.

AND further, for the prevention of vexatious litigation, BE IT ENACTED, with regard to every action in respect of any matter or thing done or intended to be done in pursuance of this Act, so far as relates to the costs of such action, THAT IF the defendant apply to the superior court at Westminster in which such action is pending, or to any Judge of any of the said courts, THEN it shall be lawful for such court or any such Judge to require the plaintiff to give such security as such court or Judge shall think fit, for the payment of all costs, charges and expenses incurred or to be incurred in and about the said action, and which shall be or become payable by him on the taxation thereof by the proper officer.

AND

LEGAL PROCEEDINGS.

108. Prosecutions for preventing neglect or evasion of this Act.

AND BE IT ENACTED, with regard to any penalty or forfeiture incurred by any default in complying with the provisions of this Act, so far as relates to proceedings for the recovery thereof, THAT, at any time within Three Months after such penalty or forfeiture shall have been incurred, it shall be lawful for any surveyor appointed or confirmed by virtue of this Act, and all other persons, and they are hereby entitled to commence and prosecute proceedings for the recovery thereof, or for the recovery of the expenses of pulling down or altering of any building against any owner, occupier, builder, workmen or other person, or for any default made in complying with the provisions of this Act; PROVIDED always, THAT IF such proceedings be taken by any person, except one of the Surveyors, or except the Official Referees, THEN Seven Days notice of the intention to commence such proceedings must be given at the office of the Surveyor of the district, and at the office of the Registrar of Metropolitan Buildings.

Notice of action.

MISCELLANEOUS.

109. Notifications.

AND BE IT ENACTED, with regard to notices by this Act required, so far as relates to the service thereof upon the owner or occupier of any building or ground, THAT every such notice must be given as follows; that is to say—

Married female.

If such owner be a married female, other than a cestuique trust in regard to such property, THEN such notice must be given to the husband of such married female; or

Infant, Idiot or Lunatic.

If such owner be an infant, idiot or lunatic or cestuique trust, THEN such notice must be given to the guardian, trustee or committee of such infant, idiot or lunatic or cestuique trust; or

Owner unknown.

If such owner, husband, trustee, guardian or committee is not known or cannot be found, THEN such notice must be given to the occupier of such building, fence or ground to which it shall relate; or

Building unoccupied.

If such building or ground be unoccupied, THEN such notice must be affixed to some conspicuous part of such building, fence or ground, at a height of not more than Nine Feet from the ground:

Immediate landlord.

AND IF the person in the occupation of any building or premises, ground or tenement, in respect of which notice is to be given, allege that he is a tenant from year to year, or a tenant at will, and not the owner thereof, within the intent and meaning of this Act, THEN such notice must be given to the immediate landlord of such occupier, and it shall be the duty of such occupier, and he is hereby required to inform any person by whom such notice shall be required to be given, or any other person applying on his behalf, of the name, place of residence, or place of business of such owner or landlord, or of his agent or other person by whom the rent of such building, premises, ground or tenement shall be

Part ownership.

be received; AND IF such owner or landlord be not in receipt of the whole of the rents or profits of such building, premises, ground or tenement; AND IF any notice shall be served upon such owner or landlord, THEN, immediately upon the receipt thereof, it shall be his duty and he is hereby required to transmit to his immediate landlord or his agent, and also to any other person being part owner in such building or premises, ground or tenement, or in receipt of the rents or profits thereof under the same immediate landlord, or to the agent of such person, a copy of such notice, and so on in turn, it shall be the duty of every landlord, agent or other person by whom such notice shall be received, to transmit it to any such landlord, agent or other person being part owner of any such building or premises, ground or tenement, to the intent that every person affected by the work or proceeding to which such notice relates may have due notice thereof: PROVIDED ALWAYS, with regard to every such notice, so far as relates to the service thereof upon any such owner, THAT IF it be served upon the immediate landlord of the occupier or upon his agent, by or on behalf of the person by whom it is hereby required to be served in the first instance, THEN, although it may not be served by such immediate landlord upon any other landlord or owner, such service is to be deemed to be sufficient service; BUT THAT NEVERTHELESS, if any owner suffer damage by the failure of any other person, being either the occupier or any person holding under such owner, to serve such notice, THEN such owner shall be entitled to recover the amount thereof against such person by whom such damage shall have been occasioned; AND THAT every notice served under this Clause, on any person, must contain a copy of the provisions, so far as they require him to transmit the same to his immediate landlord, or the agent of such landlord.

Service of Notices.

Damage arising from defective service.

Requisites of Notice.

110. Mode of service upon occupier.

AND BE IT ENACTED, with regard to notices by this Act required, so far as relates to the mode of service thereof upon the occupier of any building or ground, THAT IF such notice be intended for the occupier of any building or ground, THEN it must be given either personally or by leaving the same with some inmate at the premises, or it must be affixed as aforesaid.

111. Mode of service upon owners, by delivery.

AND BE IT ENACTED further, with regard to all such notices, so far as relates to the mode of service thereof upon owners by delivery, THAT every such notice (except such notice as may, according to the provision in that behalf, be sent by post), must be given either personally or by leaving the same with some inmate at the usual place of abode of such party, or if that be not known, then at his last known place of abode; AND THAT every such notice, when so given to such persons respectively as aforesaid, or left at the last known place of their respective abodes, or when so affixed as aforesaid, according to the

Effect of notice.

the cases hereinbefore mentioned, shall have the same effects and consequences as if given to the actual owner.

112. Mode of service upon owners, by transmission.

AND BE IT ENACTED further, with regard to Notices, so far as relates to the mode of service thereof by transmission, THAT IF any owner, upon whom the same is required to be served, be not within the limits of this Act, or have not, within the limits of this Act, any agent acting in his behalf in the matter of the premises to which the notice refers, THEN it shall be lawful to give notice by post-letter, duly registered according to the practice for the time being, adopted with regard to letters transmitted by post; BUT so that, nevertheless, such letter be posted in such time as will afford to the person addressed, after the receipt of such letter, the full period of notice required in the case.

113. Notices for Surveyors and Official Referees.

AND BE IT ENACTED, with regard to notices, so far as relates to the service thereof upon the Surveyors and upon the Official Referees, THAT IF the notice relate to the Surveyor, THEN such notice must be served at the office of the Surveyor; AND THAT IF the notice relate to the Official Referees or any of them, THEN such notice must be left at the Office of the Registrar of Metropolitan Buildings.

114. Consents by incapacitated persons.

AND BE IT ENACTED, with regard to consents by this Act required to be given by the owner or occupier of any building or ground, so far as relates to the making thereof on behalf of incapacitated persons, THAT IF such owner or occupier be a married female, not being a cestuique trust in regard to the property to which such consent relates, THEN such consent must be given by the husband of such married female; OR THAT IF such owner or occupier be an infant, idiot or lunatic or cestuique trust, THEN such consent must be given by the guardian, trustee or committee of such infant, idiot or lunatic or cestuique trust; OR THAT IF such owner or occupier, husband, trustee, guardian or committee be not known or cannot be found, THEN, with a view to protect the interests of such parties, as well as to facilitate the purposes of this Act, it shall be lawful for the Official Referees, and they are hereby authorized by writing duly sealed by the Registrar of Metropolitan Buildings, to give such consent as may be requisite, upon such terms and subject to such conditions as may seem fit to them, having regard alike to the nature and purpose of the subject-matter in respect of which such consent is to be given, and to the fair claims of the parties on whose behalf such consent is to be given.

115. Exemption from Stamp-duty.

AND BE IT ENACTED, with regard to the following documents, so far as relates to the payment of stamp-duty in respect thereof, THAT

every certificate and every award required to be made or signed by the Surveyor or the Official Referees, shall be and is hereby exempted from stamp-duty.

116.
Public Act.

AND BE IT ENACTED, THAT this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and other persons whomsoever, without specially pleading the same.

117.
Amendment of Act.

AND BE IT ENACTED, THAT this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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SCHEDULES.

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SCHEDULE (A.)—(*see* §. 1.)

Containing a Description of the Acts and Parts of Acts repealed by this Act.

DATE OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
1st.—14 Geo. III. c. 78. (1774.)	An Act for the further and better Regulation of Buildings and Party-walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, and the Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain conditions, Builders and other persons against the Penalties to which they are or may be liable for erecting Buildings within the limits aforesaid, contrary to law.	-- Wholly; except so far as any such Act may repeal any other Act, either wholly or partly, and except as to offences committed, penalties incurred, and fees payable, and any proceedings taken or commenced, or which might be taken or commenced, under the said Act, on or before the said First day of January One thousand eight hundred and Forty-five; and except the whole of the several sections of the said Act which relate to the keeping of fire-engines and ladders and fire-cocks (§. 74, 75), and to the fees or rewards to turncocks and engine-keepers (§. 76), and to the payment of such rewards or fees (§. 77, 78), and to the providing of engines by parishes (§. 80, 81), and to the payment of the expenses and rewards out of the poor-rates (§. 81), and to the exemption of watermen and others from impressment, or the liability to serve either as mariners or as soldiers (§. 82), and to the application of insurance-money on houses burnt (§. 83), and to the punishment of servants for carelessly firing a house (§. 84), and to the attendance of peace and parish officers at fires (§. 85), and to legal proceedings in respect of accidental fires (§. 86), and any other part of the said Act, so far as it is necessary for giving full effect to the respective purposes of such several unrepealed sections.
2d.—50 Geo. III. c. 75. (1810.)	An Act to amend an Act of the fourteenth year of his present Majesty for the better Regulation of Buildings and Party-walls; and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, by permitting John's Patent Tessera to be used in covering of Houses and Buildings within the places therein mentioned.	-- Wholly.
3d.—4 & 5 Will. IV. c. 35. (1834.)	An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimnies and Flues.	-- So much thereof as relates to the construction and regulation of chimnies and flues within the limits of this Act.
4th.—3 & 4 Vict. c. 85. (1840.)	An Act for the Regulation of Chimney Sweepers and Chimnies.	-- The same.

SCHEDULE (B.)—(*see* §. 5 & 7.)

Containing LIST of BUILDINGS, of whatever Class, exempted from Ordinary Supervision, and placed under Special Supervision.

Bridges, embankment walls, retaining walls, and wharf or quay walls:

s. 139. And Her Majesty's Royal Palaces, and any building being in the possession of Her Majesty, Her heirs and successors, or employed for Her Majesty's use or service:

s. 140. L. & P. 39 & 40 Geo. 3, c. And the offices and buildings of the Governor and Company of the Bank of England already erected, and which now form the edifice called "The Bank of England," and any offices and buildings hereafter to be erected for the use of the said Governor and Company, either on the site of or in addition to and in connection with the said edifice:

And the Buildings of the British Museum already erected or to be erected for the like purposes:

s. 141. L. & P. 6 Geo 4, c. 105. And the warehouses of or belonging to the Saint Katharine Dock Company, and situate in the parish of Saint Botolph-without-Aldgate, and in the precinct of Saint Katharine, near the Tower of London, in the county of Middlesex:

L. & P. 9 Geo. 4, c. 116, s. 99. And the warehouses and buildings of or belonging to the London Dock Company, comprehended within the wall of the said Company, as set forth in an Act passed in the ninth year of the reign of his late Majesty King GEORGE the Fourth:

L. & P. 27 Geo. 3, c. 45., and 1 & 2 Vict., c. 9. And the several warehouses and buildings of or belonging to the East and West India Dock Company, established by an Act made in the first year of the reign of Her present Majesty:

L & P. 3 & 4 Will. 4, c. 36, and 5 & 6 Will. 4, c. 56, s. 126. And the buildings erected or to be erected by the London and Birmingham Railway Company, established and incorporated by an Act passed in the third year of the reign of his late Majesty King WILLIAM the Fourth, within and in connection with the works of their Railway, by virtue of the several Acts relating thereto:

L. & P. 9 Geo. 4, c. 113. And the erections and buildings authorized by an Act passed in the ninth year of the reign of his late Majesty King GEORGE the Fourth, for the purposes of a market in Covent Garden:

And all other buildings exempted by any Act of Parliament from the operation of the Act passed in the fourteenth year of his late Majesty King GEORGE the Third, and by this Act repealed.

SCHEDULE (C.)—PART I.—(*see* §. 5)

RULES for determining the Classes and Rates to which Buildings are to be deemed to belong for the purposes of this Act, and the Thicknesses of the Walls of Buildings of such Rates.

Classes of Buildings.

For the purposes of this Act, all buildings of whatever kind, subject to the provisions thereof, are to be deemed to belong to one or other of the following THREE CLASSES; that is to say,—

First Class.

If a building be built originally as a dwelling-house, or be occupied, or intended to be occupied as such,—then it is to be deemed to belong to the FIRST or DWELLING-HOUSE Class.

Second

SCHEDULE (C.)—PART I.—*continued.*

Second Class.

If a building be built originally as a warehouse, storehouse, granary, brewery, distillery, manufactory, workshop or stable, or be occupied or intended to be occupied as such, or for a similar purpose, —then it is to be deemed to belong to the SECOND or WAREHOUSE Class.

Third Class.

If a building be built originally as a church, chapel or other place of public worship, college, hall, hospital, theatre, public concert-room, public ball-room, public lecture-room, public exhibition-room, or occupied or intended to be occupied as such, or for a similar purpose, or otherwise used, or intended to be used, either temporarily or permanently, for the assemblage of persons in large numbers, whether for public worship, business, instruction, debate, diversion or resort,—then it is to be deemed to belong to the THIRD or PUBLIC-BUILDING Class.

Alteration of Class.

And if any room, whether constructed within any other building or not, and whether included in the aforesaid Classes or not, be used at any time for the public or general congregation of persons, —then the building containing such room is to be deemed a building of the THIRD or PUBLIC-BUILDING Class.

Or if a building originally built, or subsequently altered, so as to bring it within any one Class, be subsequently converted into or used as a building of another Class,—then it is to be deemed to belong to such other Class; and, as to it, all the conditions prescribed with regard to buildings of the same rate of such other Class must be fulfilled, as if it had been originally built of such Class; subject nevertheless to such modifications as shall be sanctioned by the Official Referees on a special supervision thereof.

Rates of Buildings.

And the buildings included in the said CLASSES are to be deemed to belong to the RATES of those Classes, according to the conditions of height, area and number of stories, set forth in the following Tables; which conditions are to be determined according to the following Rules:—

Rule for ascertaining Height.

The height of every building is to be ascertained by measuring from the surface of the first or lowest floor of the building, up to the underside of the ceiling of the topmost story at the highest part thereof, whether such story be within the roof or not:

And if there be no ceiling made or intended to be made to the topmost story,—then by measuring from the surface of such first or lowest floor of the building up to the underside of any tie-beam, collar-beam, or other substitute for a tie-beam to or within the roof of the building, and to the highest part of such roof, and the level of the under-side of such tie-beam, or such substitute for a tie-beam, is in such case to be taken to mean the ceiling of the topmost story.

And if there be no tie-beam, collar-beam, or other substitute for a tie-beam, to or within the roof of any building,—then up to a level three feet below the level of the underside of the ridge-piece or substitute for a ridge-piece to the roof of such building.

Rule for ascertaining Area.

And the area of every building is to be determined by the number of squares contained in the surface of any floor which shall contain the greatest number of squares at or above the principal entrance to such building; including in such surface the area of all the external walls and such portions of the party-walls as belong to such building, but excluding from such surface the area of any attached building or office, area, balcony, or open portico:

Rule for ascertaining Stories.

And the stories of every building are to be counted from the foundation, upwards.

And if the space in height between the top of the footings and the level of the first floor do not exceed five feet,—then the story nearest the foundation is to be considered the lowest or first story; but if such space exceed five feet,—then such space is to be considered to contain the lowest or first story; and in that case nine inches above the top of the footing is to be considered the level of the first floor.

Rule for ascertaining Thickness of Walls.

And the thickness or width of every wall, and of the footing thereof, is to be ascertained by measuring only the thickness or width of which such walls or footings shall have been originally built.

SCHEDULE (C.)—PART II.—(*see* §. 5.)

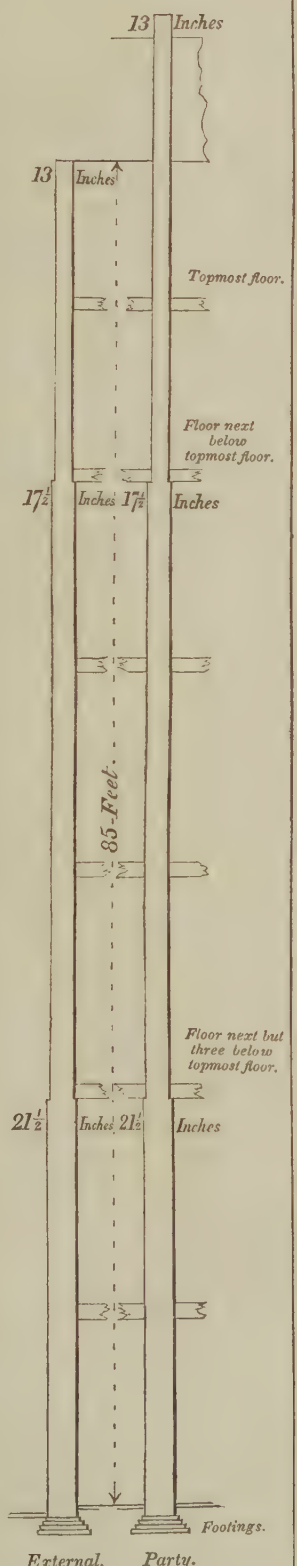
CONDITIONS for determining the RATES to which BUILDINGS of the FIRST or DWELLING-HOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL WALLS and of the PARTY-WALLS thereof.

In reference to HEIGHT.	In reference to AREA.	In reference to STORIES.	RATE of BUILDING.	REQUISITE THICKNESS of EXTERNAL WALLS of each Rate of the FIRST CLASS.	REQUISITE THICKNESS of PARTY-WALLS of each Rate of the FIRST CLASS.
1. If the building be in height more than 70 feet, and not more than 85 feet,	- - If the building cover more than 10 squares, and not more than 14 squares,	- - If the building contain SEVEN stories,	- - It is to be of the FIRST RATE of this class.	- - AND the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor, up to the under-side of the floor next below the topmost floor; and, at the least, 13 inches from the under-side of the floor next below the topmost floor up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the top-most floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor up to the under-side of the floor next below the topmost floor; and, at the least, 13 inches from the under-side of the floor next below the topmost floor, up to the top of the wall.
But if it be in height more than 85 feet,	- - Or if it cover more than 14 squares,	- - Or if it contain more than SEVEN stories,	- - It is to be an EXTRA FIRST RATE of this class.	- - And the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the underside of the floor next but two below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but two below the topmost floor up to the top of the wall.	- - And the thickness of the party walls must be, at the least, 21½ inches from the top of the footing up to the underside of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor up to the under-side of the topmost floor; and, at the least, 13 inches from the under-side of the topmost floor up to the top of the wall.
2. If more than 52 feet, and not more than 70 feet,	- - Or if it cover more than 6 squares and not more than 10 squares,	- - Or if it contain SIX stories,	- - It is to be of the SECOND RATE of this class.	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but one below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but one below the topmost floor, up to the top of the wall.
3. If more than 38 feet, and not more than 52 feet,	- - Or if it cover more than 4 squares, and not more than 6 squares,	- - Or if it contain FIVE stories,	- - It is to be of the THIRD RATE of this class.	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but two below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but two below the topmost floor up to the under-side of the topmost floor; and, at the least, 8½ inches from the under-side of the topmost floor up to the top of the wall.
4. If not more than 38 feet,	- - Or if it do not cover more than 4 squares,	- - Or if it do not contain more than FOUR stories,	- - It is to be of the FOURTH RATE of this class.	- - And the thickness of the external walls must be, at the least, 13 inches from the top of the footing up to the under-side of the floor next below the topmost floor; and at the least 8½ inches from the under-side of the floor next below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 13 inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least 8½ inches from the under-side of the floor next but one below the topmost floor up to the top of the wall.

TRANSVERSE SECTIONS OF WALLS OF THE FIRST, OR DWELLING-HOUSE, CLASS,

according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART II.

FIRST RATE.



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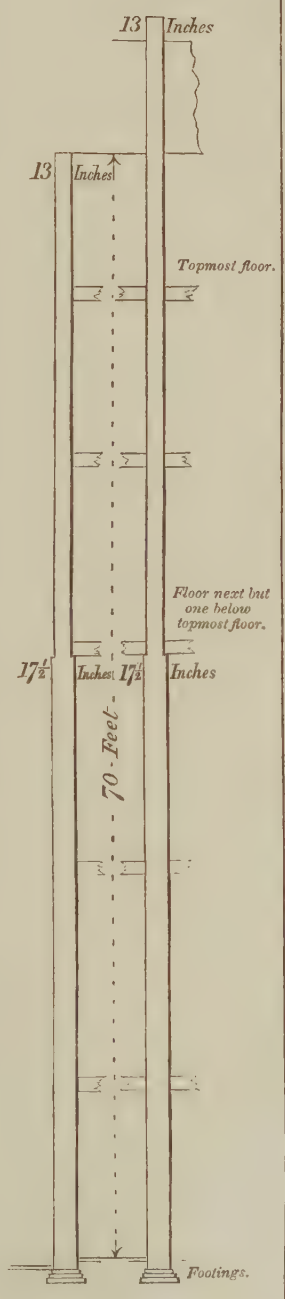
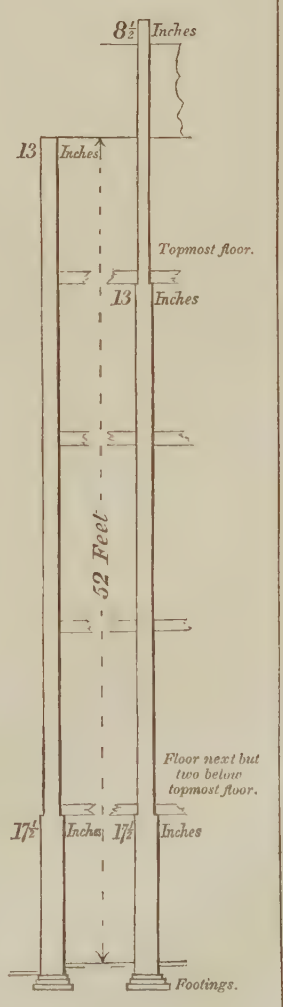


THIRD RATE.



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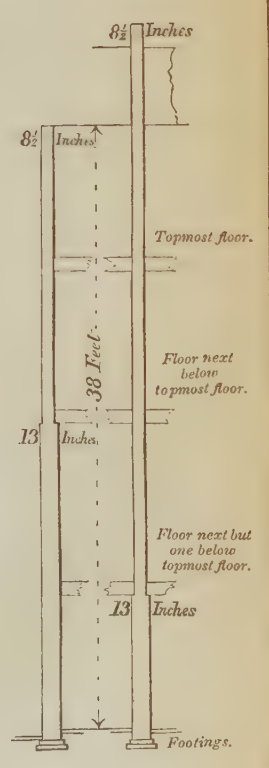
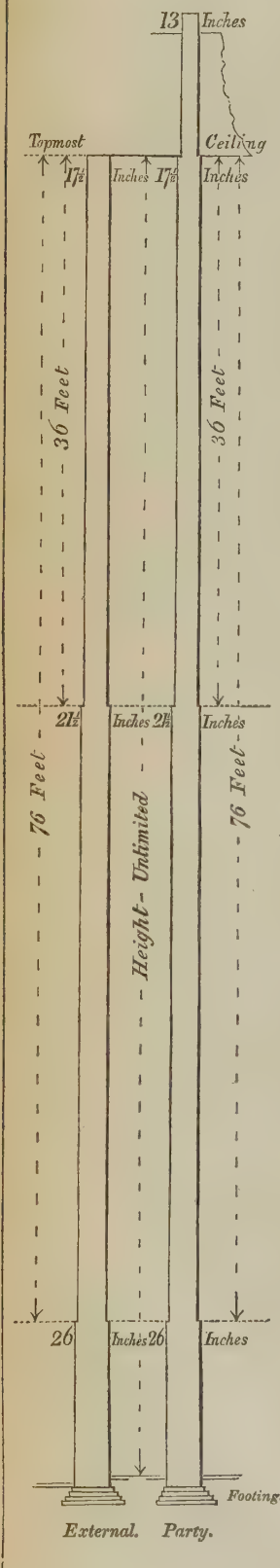


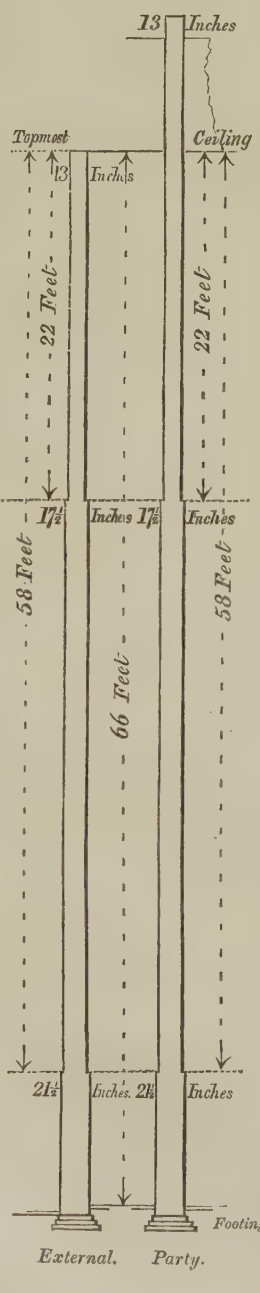
TRANSVERSE SECTIONS OF WALLS OF THE SECOND, OR WAREHOUSE, CLASS,

according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART III.

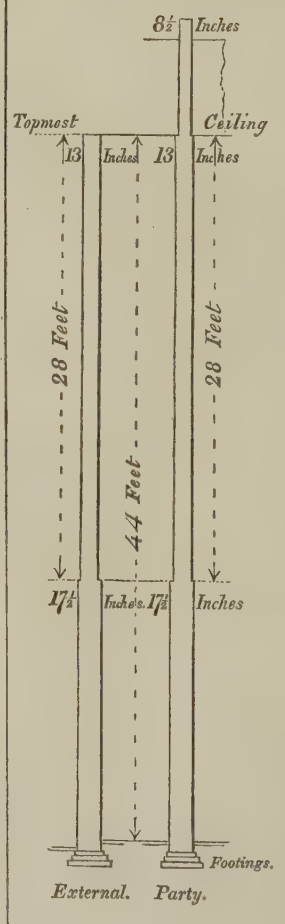
FIRST RATE.



SECOND RATE.



THIRD RATE.



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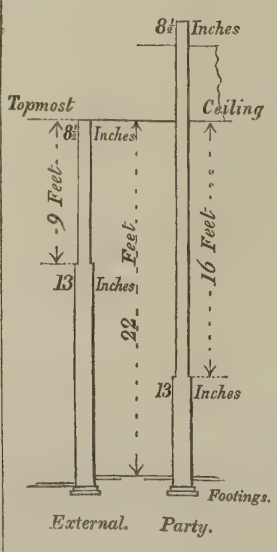

SCHEDULE (C.)—PART III.—(*see* §. 5.)

CONDITIONS for determining the RATES to which BUILDINGS of the SECOND or WAREHOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL WALLS and of the PARTY-WALLS thereof.

In reference to HEIGHT.	RATE of BUILDING.	REQUISITE THICKNESS of the EXTERNAL WALLS of each Rate of the SECOND CLASS.	REQUISITE THICKNESS of the PARTY-WALL of each Rate of the SECOND CLASS.
1. If the building be in height more than 66 feet,	- - It is to be of the FIRST RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 26 inches from the top of the footing up to the level of 76 feet below the topmost ceiling; and, at the least, 21½ inches from the level of 76 feet below the topmost ceiling up to the level of 36 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 36 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 26 inches from the top of the footing to the level of 76 feet below the topmost ceiling, and, at the least, 21½ inches from the level of 76 feet below the topmost ceiling up to the level of 36 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 36 feet below the topmost ceiling up to the level of the topmost ceiling; and, at the least, 13 inches from the level of the topmost ceiling up to the top of the wall.
2. If more than 44 feet, and not more than 66 feet,	- - It is to be the SECOND RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the level of 58 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 58 feet below the topmost ceiling up to the level of 22 feet below the topmost ceiling; and, at the least, 13 inches from the level of 22 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the level of 58 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 58 feet below the topmost ceiling up to the level of 22 feet below the topmost ceiling; and, at the least, 13 inches from the level of 22 feet below the topmost ceiling up to the top of the wall.
3. If more than 22 feet, and not more than 44 feet,	- - It is to be of the THIRD RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the level of 28 feet below the topmost ceiling; and, at the least, 13 inches from the level of 28 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the level of 28 feet below the topmost ceiling; and, at the least, 13 inches from the level of 28 feet below the topmost ceiling up to the level of the topmost ceiling; and, at the least, 8½ inches from the level of the topmost ceiling up to the top of the wall.
4. If not more than 22 feet,	- - It is to be of the FOURTH RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 13 inches from the top of the footing up to the level of 9 feet below the topmost ceiling; and, at the least, 8½ inches from the level of 9 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 13 inches from the top of the footing up to the level of 16 feet below the topmost ceiling; and, at the least, 8½ inches from the level of 16 feet below the topmost ceiling up to the top of the wall.

SCHEDULE (C.)—Part IV.

RULES concerning Buildings of the Second or Warehouse Class.

Warehouses, &c.

With regard to any building of the Second Class, hereafter built or rebuilt, in reference to the area thereof within the same enclosing-walls;—

If such building exceed 35 squares,—then it must have for every 35 squares thereof party-walls; unless the quantity exceeding 35 squares or an extent of 25 feet in length at the least, and of the whole breadth of every such building, between every two quantities which together may exceed 35 squares, and not amount to 70 squares, and neither of which must exceed 35 squares, be built and fitted from the foundation to the highest part of the roof, or other summit thereof, wholly fire-proof; or otherwise, unless such portions of such buildings as shall be thought necessary by the Official Referees upon special application, be built in like manner fire-proof;

And in either of such cases, no internal separation by party-walls of the same building will be required.

Openings in Party-walls.

And with regard to buildings of the Second Class, in reference to the openings in party-walls;—

Such openings must not be made wider than six feet, nor higher than eight feet, unless in each case the Official Referees shall previously authorize larger openings.

And the floor, and the jambs, and the head of every such opening must be composed of brick or stone work throughout the whole thickness of the wall.

And every such opening must have a strong wrought-iron door on each side of the party-wall, fitted and hung to such opening without wood-work of any kind; and such doors must be not less than one-fourth of an inch thick in the panels thereof;

And each of such doors must be distant from the other not less than eighteen inches.

Fire-proof Part of Buildings.

And with regard to such Second Class buildings so built in part fire-proof, in reference to the construction and materials of such fire-proof part,—It must be built of such materials and in such manner as shall be approved by the Official Referees.

Roofs.

And with regard to the Roofs of Buildings of the second class,—In order to prevent the formation of curbed roofs to such buildings, the plane of the surface of the roof of every such building must not incline from the external or party-walls upwards, at a greater angle than 50 degrees with the horizon.

SCHEDULE (C.)—Part V.

REQUISITES for determining the Rate to which any Building of the Third or Public-Building Class is to be deemed to belong.

If any building of the Third or Public-Building Class correspond in form or structure or disposition with a dwelling-house,—then the Rate thereof is to be determined by the same rules as the Rates of the First or Dwelling-house Class; and the thicknesses of the external and party-walls, and the width of the footings thereof, are to be at the least four inches more than is hereby required for the external and party walls, and the footings thereof of buildings, of the same Rate of the First or Dwelling-house Class, unless the Official Referees, on special supervision in each case, shall otherwise appoint.

But if it correspond in form or structure or disposition with a warehouse, or any building of the Second Class,—then the Rate thereof is to be determined by the same Rules as the Rates of the Second or Warehouse Class; and the thickness of the external and party walls, and the width of the footings thereof, are to be at the least four inches more than is hereby required for the external and party-walls, and the footings thereof, of buildings of the same Rate of the Second or Warehouse Class, unless the Official Referees, on special supervision in each case, shall otherwise appoint.

But if it do not correspond in form and structure, or in either, with buildings of the first or second classes or any of them, then such building is to be subject, as to its walls or other construction, to the special approval of the Official Referees.

SCHEDULE (C.)—*continued.*

PART VI.—RULE concerning FIRE-PROOF ACCESSES and STAIRS to Buildings of the FIRST and THIRD CLASSES.

With regard to buildings of the First Class, whereof the internal stairs are of stone or other incombustible substance,—Such stairs must be set in, or be fixed to, and be wholly upborne by, fire-proof constructions, and must be connected internally by landings, the floors of which are fire-proof, and wholly upborne and supported by fire-proof constructions; and must be connected with the exterior entrance by passages, the floors of which are fire-proof, and wholly upborne and supported by fire-proof constructions.

And with regard to buildings of the Third Class,—The floors of the halls, vestibules, lobbies, corridors, passages, and the stairs and landings, and all other ways of ingress and egress within the building, to and from all rooms or apartments used for public congregation, and to and from all galleries being part of, or being connected with, any such room or apartment, must be wholly supported, constructed, formed, made and finished fire-proof.

PART VII.—RULES concerning attached and detached and insulated Buildings, as to the Rates and Walls thereof.

Attached Buildings and Offices.

With regard to buildings or offices now built or hereafter to be built, (except greenhouses, vineries, aviaries, or such like buildings),—and that, whether such buildings or offices be attached to, or detached from, the buildings to which they belong;—

Every such building is to be deemed, in respect of the walls thereof, and all other requisites, as a building of the rate to which it would belong if it had been built separately.

Greenhouses, &c.

And with regard to greenhouses for plants, vineries, aviaries, or such like buildings attached to other buildings,—

(Subject to any law in force applicable to such buildings, and subject to the rights of the owner or occupier of the adjoining property,)—Any such building may be built, as to the party-walls, if any, according to the rules of this Act prescribed respecting party-walls; but in other respects, in such manner only, and of such materials only, as shall be approved by the Official Referees.

Insulated Buildings.

And with regard to buildings of the First or Dwelling-house Class, and of the Second or Warehouse Class, which shall be insulated, so far as relates to the distance thereof from a public street or way,—

Every such building must be distant from any public street or alley one-third of the height thereof at the least; and if the building do not exceed 24 feet in height,—then it must be so distant at the least eight feet;

And with regard to such building, so far as relates to the distance thereof from any other building, or from ground not in the same possession or occupation therewith, or connected therewith only by a fence or fence-wall,—It must be distant from such other building or such other ground at the least 30 feet;—

And if such building be so distant from a public street or alley, and from any other building, or from ground not in the same possession or occupation therewith,—then such building is not to be liable, in respect of the dimensions and materials thereof, to the rules and directions of this Act.

Insulated Buildings afterwards divided.

PROVIDED always, That if any such building be hereafter divided into two or more distinct buildings, and the several parts of such buildings so divided be not at the aforesaid distance from each other, and from other buildings and ground,—then such several parts must be separated from each other by such party-walls, as are herein prescribed for the rates to which such several parts, if adjoining, would belong.

And if such requisites be not observed,—then such several parts of such buildings in respect of which they are not so observed, shall be deemed a public nuisance, and as such be taken down, according to the provisions of this Act in that behalf.

SCHEDULE (C.)—*continued.*

Toll-houses, &c.

And with regard to certain buildings which shall be built for the purposes of trade or the collection of toll,—

If such buildings be situate fifteen feet at the least from any other building, and do not cover an area of more than one square and one half, and the height thereof do not exceed twelve feet from the ground to the highest point of the roof,—then every such building may be enclosed with any materials whatsoever; but the roof thereof must be covered as herein directed with regard to roofs, and the chimney and flue (if any) must be built as herein directed with regard to chimnies and flues.

SCHEDULE (D.)

PART I.—RULES concerning WALLS of whatever Kind.

Foundations.

With regard to the FOUNDATIONS of WALLS, in reference to the construction and materials thereof,—

Every external wall and every party-wall, and every party fence-wall, must be built upon a constructed footing, based upon solid ground, or upon other sufficient foundation.

Footings.

With regard to footings of walls, in reference to the materials thereof, to the width thereof, to the height thereof above the foundation, and to the depth below the surface,—

Materials.

1. In reference to the materials thereof:—

Every footing must be built, either of sound bricks, or of squared stone, or of such bricks and stone together, laid in and with mortar or cement in such manner as to produce solid work.

Width.

3. In reference to the width thereof:—

The bottom of the footing of every party fence-wall, and of every external wall and party-wall of the Fourth Rate, must be at the least 8½ inches wider than the wall standing thereon; and the bottom of every footing of every external wall and party-wall of the Second and Third Rates must be at the least 13 inches wider than the wall standing thereon; and the bottom of the footing of every external wall and party-wall of the First Rate must be at the least 17½ inches wider than the wall standing thereon.

The top of the footing of every party fence-wall and of every external wall and party-wall must be, at the least, four inches wider than the wall standing thereon:

And every footing so built narrower at the top than at the bottom must diminish equally and gradually on each side from the greater to the lesser width.

Height.

4. In reference to the height above the foundation:—

The footing of every party fence-wall, and of every external wall and party-wall of the Fourth Rate, must be at the least five inches high above the foundation.

The footing of every external wall and party-wall of the Second and Third Rates must be at the least eight inches high above the foundation.

The footing of every external wall and party-wall of the First Rate must be at the least eleven inches high above the foundation.

Depth below Ground.

5. In reference to the depth thereof below the surface of the lowest ground or area adjoining:—

The top of the footing of every party fence-wall and of every external wall and party-wall must be at the least three inches below such surface.

Depth below lowest Floor.

6. In reference to the depth thereof below the surface of the lowest floor adjoining, or intended to adjoin, thereto:—

The top of the footing of every external wall and party-wall must be at the least nine inches below such surface; and in any building of the First Class the surface of the earth, or of any paving on the outside, must not at any time be raised to within six inches of the surface of the lowest or first floor of such building.

Walls

SCHEDULE (D.)—PART I.—*continued.*

Walls generally.

With regard to every party fence-wall, and to the external walls and party-walls of every building hereafter built, and of every addition to such building, whether already built or hereafter built,—Every such wall must stand equally on each side within the top of its footing.

Thicknesses of Enclosing Walls to Stories of Buildings of whatever Rate.

With regard to the enclosing walls to stories of buildings of the First and Second Classes,—Each of the enclosing walls of any such story, throughout the whole height thereof, from the top of the footing up to the top of such story, and with all the sets-off in addition required for such wall, to whatever Rate or whichever Class it may belong, and throughout at the least one-third of the whole length of such wall, in piers properly distributed, must be of the following dimensions, (unless cross or return-walls, coursed and bonded with the enclosing walls, shall, in the opinion of the Official Referees, upon special application to them in each particular case, give sufficient strength, with less thickness in such enclosing walls); that is to say,—

As to First Class buildings; if the story be in height more than 11 feet,—then the thickness of its enclosing walls must be at the least 13 inches.

Or if the story be in height more than 15 feet,—then the thickness of its enclosing walls must be at the least 17½ inches.

As to Second Class buildings; if the story be in height more than 9 feet,—then the thickness of its enclosing walls must be at the least 13 inches.

Or if the story be in height more than 12 feet,—then the thickness of its enclosing walls must be at the least 17½ inches.

Or if the story be in height more than 15 feet,—then the thickness of its enclosing walls must be at the least 21½ inches.

Or if the story be in height more than 18 feet,—then the thickness of its enclosing walls must be at the least 26 inches.

Nevertheless any external wall of any building of the First Class in which there are no apertures or recesses may be built of the thickness of 13 inches, of any height not exceeding 18 feet, within any story, although the rate of the wall may require a greater thickness, if another external wall and a cross wall of not less than 8½ inches thick, coursing and bonding with such external wall, or if two such cross walls occur within a length of 24 feet of such wall; but always upon condition that the substructure of such wall is 4 inches thicker at the least than such superstructure, and vertically under it.

And also any such external wall abutted by cross or return walls within a length of 12 feet may be built of any thickness not less than 13 inches, notwithstanding the rate of such wall may require a greater thickness, if not more than one aperture or recess occur within such length of 12 feet, and not more than one-half the quantity in length be taken out of such compartment of a wall by any such aperture or recess.

PART II.—*External Walls.*

Construction and Materials.

And with regard to the component materials of external walls to buildings of whatever class;—

Every such wall must be built of sound bricks, or of squared stone, or of such bricks and stone together, laid in and with mortar or cement in such manner as to produce solid work; and every such wall must be carried up of its full thickness to the underside of the plate under the roof.

Nevertheless, in such walls, besides all requisite openings for doors and windows, recesses may be formed; so that the back thereof be of the thickness of eight inches and a half at the least; and so that the stability and sufficiency of the wall be not injuriously affected by making such recesses.

And with regard to other substances than the component materials of external walls,—There may be such wood and iron as shall be necessary.

And every plate, lintel, bond, corbel, being of wood, and every wood-brick laid into any external wall, and all ends of joists, of girders, and of the heads and sills of partitions running into any external wall, must be fixed at a distance from the external face of the wall of four inches at the least.

And the frames of doors and windows must be fixed in reveals at a distance from the external face of the wall of four inches at the least.

And shop-fronts must be fixed in such manner as is herein specially directed.

And the tiers of door-cases to warehouses must be fixed in the openings left in such walls, at a distance from the external face of the wall of two inches at the least.

SCHEDULE (D.)—PART II.—*continued.*

But no timber must be laid into any external wall in such manner, or of such length, as to render the part of the wall above it wholly, or in great part, dependent upon the wood for support, or so that any such wood might not be withdrawn without endangering the safety of the superincumbent structure, except in the case of brestsummers.

Height and Thickness of Parapets.

And with regard to external walls, in reference to the height and thickness of any parapet thereon:—

If an external wall adjoin a gutter,—then such external wall must be carried up, and remain one foot at the least above the highest part of such gutter.

And the thickness of an external wall, so carried up above the level of the underside of the gutter-plate, and forming a parapet, must be at the least,—

In every such wall of the extra First Rate of the First Class, and in every such wall of the First Rate of the Second Class, 13 inches thick; and—

In every other external wall of whatever rate or whichever class, 8 ½ inches thick.

Brestsummers.

With regard to every brestsummer fixed to carry any front wall of a building,—

If such brestsummer have a bearing at one end upon a party-wall,—then it must be laid upon a template or corbel of stone or iron, which template or corbel must be tailed through such wall at least two-thirds of the thickness thereof; and the end of such brestsummer must not be fixed into, and must not have its bearing solely upon such party wall, but must be supported by a sufficient pier built of brick or stone, or by an iron column, or iron or timber story-post fixed on a solid foundation.

And if any such brestsummer have its bearing at each end upon a party-wall,—then it must be supported by at least two sufficient piers built of brick or stone, or by iron columns or by iron or timber story-posts fixed on solid foundations, and standing within and clear of the party-walls.

Or any such brestsummer may bear also upon constructed returns in the direction of the length of the brestsummer of four inches at the least, coursed and bonded with the substance of the party-wall or party-walls; and such constructed returns must be increased one inch, at the least, for every six feet in length that the brestsummer may be otherwise unsupported.

And if the height of the under-side of any brestsummer, laid from party-wall to party-wall to carry any external wall, exceed 15 feet from the surface of the public foot-pavement in front of the building,—then there must be constructed returns in the direction of the length of the brestsummer from the inside of each party-wall of 8½ inches at the least, and at the least of the full thickness of such brestsummer; and every such return must be increased one inch at the least for every foot or part of a foot the brestsummer may be in height from the surface of the public foot-pavement more than 16 feet, whether the brestsummer be otherwise supported or not.

Materials to be used in Repairs.

And with regard to old external Walls or other external inclosures of any building already built, in reference to materials to be used in the repair thereof,—

If any such wall or inclosure be not built of the materials required by this Act for external walls or other external inclosures hereafter to be built,—then every part of such wall or other external inclosure, (except the inclosure of roofs, and the flats, gutters, dormers, turrets, lantern-lights and other erections thereon,) may be at all times thereafter repaired with materials of the same sort as those of which such external wall or inclosure has been already built.

Materials to be used in Rebuilding.

But if any such external wall or inclosure be at any time hereafter taken down or otherwise demolished for the height of one story, or for a space equal to one-fourth of the surface thereof,—then every part thereof, not built in the manner and of the several materials by this Act directed for external walls, must be taken down; and the same must be rebuilt in such manner, and of such materials, and in all respects as by this Act directed for external walls hereafter to be built, according to the class and rate of the building to which such external wall or inclosure shall belong.

External Wall used as a Party-wall.

And with regard to external Walls to be used as party-walls to any building adjoining thereto, (except an attached building or office as is hereinbefore described),—

If the external wall of any building have not such footings, or be not of such heights and thicknesses, or be not built in such manner and of such materials as are herein directed for party-walls of buildings of the highest rate to which such wall shall adjoin,—then such external wall must not be used as a party-wall for any such building; but there must

SCHEDULE (D.)—PART II.—*continued.*

must be a distinct external wall built as herein described for external walls, of the rate to which it shall belong.

But if such external wall to any building already built be at the least 13 inches in thickness, in every part, and be of sound and proper materials and in good condition,—then such wall may be used as a party-wall; but if the house of which such wall forms a part be rebuilt within five years from the time at which the wall shall have been so first used as a party-wall,—then such wall must become subject to the provisions of this Act in respect of party-walls, according to the class and rate to which the said wall did first belong.

PART III.—*Party-walls.*

Division of Buildings.

And with regard to walls used to divide single buildings into two or more,—

If it be intended to divide any building into two or more distinct parts,—then every wall for that purpose must be built as a party-wall, in the manner and of the materials, and of the several heights and thicknesses for party-walls of the highest rate of building to which such party-wall shall belong or adjoin, as prescribed in reference to the thicknesses of party-walls in Schedule (C.)

And if any building already built or which shall be hereafter built, be converted, used or occupied as two or more separate buildings, each having a separate entrance and staircase, and each being separately rated to the poor,—then every such building shall be deemed to be two or more separate houses, and such separate houses must be divided from each other by a party-wall or party arch or arches, built in the manner and of the materials required for party-walls, or for party-arches, for the class and rate to which the largest of the buildings so divided shall belong.

Site of Walls.

With regard to party-walls, in reference to the site thereof,—

If the buildings be of equal rate,—then such party-wall must be built on the line of junction of such buildings, One-half on the ground of the owner of one of such buildings, and One-half on the ground of the owner of the other of such buildings.

If such buildings be of different rates,—then such wall must be built on the line of junction thereof, as follows; that is to say, One-half of the thickness of the wall required for the building of the lower rate, on the ground of each of the adjoining owners; and the whole of the additional thickness of the wall required for the building of the higher rate, on the ground of the owner of such building of the higher rate;

And if such building of the lower rate be thereafter enlarged or altered, so as to become a building of a higher rate,—then the owner of such first-mentioned building of the higher rate, for the time being, shall be entitled to receive from the owner of such building of the lower rate, such sum of money as shall be a sufficient compensation for the ground occupied by that portion of the party-wall, which, according to the rate of the building enlarged, ought to have been built by its owner on his own ground, as well as the value of so much of the wall itself as may be more than the owner of such building of the lower rate had already paid for.

Construction and Materials.

And with regard to Party-walls, in reference to the component materials thereof,—

Every part of such party-wall must be built of sound bricks or of squared stone, or of such bricks and stone together, laid in and with mortar or cement, in such manner as to produce solid work.

And as to the wood work which it may be desired to connect with the party-walls of any building,—The bearing ends of wooden beams, brestsummers, girders, trimming joists, and the ends of partition heads and sills, and the bearing ends of the main timbers of a roof, and wood bricks, may be laid into the substance of a party-wall; but no such beam, brestsummer, girder, joist, partition-head or sill, nor any part of a roof being wood, nor any wood bricks, must be laid or placed within four inches of the centre of any party-wall;—and no other wood-work of any kind must be laid into, placed upon, or be run or driven into any part of the substance of any party-wall:—

But if the ends of timbers be carried on iron shoes or stone corbels, then such iron shoes or stone corbels must be built into the wall at the least one-half of the thickness of such wall.

And the top of every such party wall must be finished with one course of sound stock-bricks, set on edge with good cement, or by a coping of any other properly secured and sufficient waterproof and fireproof covering.

Height of Party-walls above Roof.

And with regard to Party-walls, in reference to the height thereof,—

If a party-wall adjoin to any roof,—then such party-wall must be carried up and remain one foot six inches at the least above the part where the party-wall and roof adjoin, measured at a right angle with the back of the rafters of such roof.

SCHEDULE (D.)—PART III.—*continued.*

And if any party-wall adjoin a gutter,—then such party-wall must be carried up, and remain two feet at the least above the highest part of any such gutter.

If there be fixed within five feet of a party-wall, upon the flat or roof of the building, any turret, dormer, lantern-light or other erection, of combustible materials,—then every such party-wall must be carried up next to every such turret, dormer, lantern-light or other erection, and must extend one foot six inches higher, and one foot six inches wider than any such erection on each side thereof.

Openings in Party-walls.

And for the purpose of regulating the making of Openings through any party-wall between one dwelling-house and another, whereby two or more dwelling houses shall be united.

With regard to any dwelling-houses of any rate, such dwelling-houses may be united by means of openings in the party-walls,—

But with regard to any dwelling-houses which when so united will contain more than fourteen squares,—

If such dwelling-houses shall be and continue to be in the same occupation,—and if the poor-rates in respect thereof shall be paid by the same person,—then, upon its being declared by the Official Referees that in their opinion the stability and security from fire of any or either of such dwelling-houses will not be endangered by making such openings, they may be made accordingly; but the external and party-walls thereof must be such as are herein prescribed for Buildings of the extra First Rate of the First Class.

Recesses and Chases.

And further, with regard to any party-wall, as to Recesses, and as to Chases in such wall,—

In every story recesses may be formed, but only with the consent and authority of the Official Referees first had and obtained, and so that such recesses be arched over, and so that the back of any such recess be not nearer than seven inches to the centre of the party-wall in the first or lowest story, nor nearer than four inches to the centre of the party-wall in any other story, and so that the stability and sufficiency of such party-wall be not injuriously affected thereby.

IF any Chases be required for the insertion of ends of walls, of piers, of chimney-jambs, of withes of flues, of metal pipes, or of iron story-posts,—then every Chase for any such purpose must not be left or be cut nearer than four inches at the least to the centre of a party-wall, nor within a distance of nine inches at the least from any front or back wall, and no two such Chases must be made within a distance of seven feet six inches at the least from each other on the same side of a wall, and no such Chase must be formed wider than nine inches.

PART IV.—*Party-walls and Party-arches between intermixed Property.*

And with regard to any building already built, having rooms or floors, the property of different owners, which lie intermixed, without being separated by any party-wall or party-arch or stone floor,—

If either of such houses shall be altogether rebuilt, or to the extent of one-fourth of the cubical contents thereof,—then such intermixed properties must be separated from each other as follows:

If they adjoin vertically,—then so far as they adjoin vertically, they must be separated by a party-wall.

If they adjoin horizontally,—then so far as they adjoin horizontally, they must be separated either by a floor formed of brick, tile, stone or other proper and sufficient incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or tiles, or by a party-arch or party-arches of brick or stone of the thickness of nine inches at the least, if the span do not exceed nine feet, and thirteen inches at the least if the span exceed nine feet; and such floor or party-arch or party-arches must be built with sufficient abutments and in a sufficient manner.

PART V.—*Buildings over Public Ways.*

And with regard to buildings extending over any public way, as to the part thereof which extends over such way, so far as relates to the separation of such part from such public way,—

If such part be rebuilt,—then it must be separated from such public way, either by a floor or arch formed of brick or stone, or of other incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or by an arch formed of brick or of stone; which arch, if the span thereof do not exceed nine feet, must be of the thickness of nine inches at the least, and which if the span exceed nine feet, must be of the thickness of thirteen inches at the least.

And

SCHEDULE (D.)—PART V.—*continued.*

And such floor or arch, with its abutments, must be built in such manner as shall be approved of by the surveyor; but there must not be formed over any public way a ceiling of lath and plaster, or of lath and cement.

PART VI.—*Party Fence-Walls.*

And with regard to party-fence-walls, in reference to the thickness thereof, and to the height thereof,—

The thickness of every such party-fence-wall must be, throughout at the least one-eighth of its length, and in buttress piers properly distributed, one-twelfth at the least of the whole height of the wall, measured from the top of the footing to the top of the wall, and including any coping upon the wall; or if the wall be less than 8 ½ feet high, then such thickness must be in every part thereof 8 ½ inches at the least, and the intermediate parts of every higher wall must be at the least 8 ½ inches thick.

And every party-fence-wall, less than nine feet above the ground on either side thereof, may be raised to that height, by the owner of the ground, on the side on which it is less than that height; but upon condition that he do pay all the costs and charges of so raising it.

SCHEDULE (E.)—(*see* §. 5.)

RULES concerning external PROJECTIONS.

Projections from Walls of Buildings.

And with regard to all buildings, in reference to projections therefrom (except the porticoes of churches, chapels, theatres or other public buildings, but including steps, cellar-doors and area inclosures),—The walls of all such buildings must be set back, so that all projections therefrom, and also all steps, cellar doors and area inclosures, shall only overhang or occupy the ground of the owner of such building, without overhanging or encroaching upon any public way.

Porticoes projected over Public Ways.

And with regard to the portico or porticoes of any church, chapel, theatre or other public building of the Third Class,—

If the building of the same shall have been previously sanctioned by the official referees, by writing under their hands, and if objection be not made by any party interested within one month thereafter, and if, upon such objection or appeal, Her Majesty's Principal Secretary of State acting for the Home Department, do not decide in favour thereof,—then such projections may be built over the foot pavement of any street or alley which shall be fifty feet wide at the least (notwithstanding any Act heretofore passed to the contrary).

Projections from Face-walls, &c.

And further, with regard to buildings, in reference to projections therefrom,—

As to copings, parapets, cornices to overhanging roofs, blocking-courses, cornices, piers, columns, pilasters, entablatures, facias, door and window dressings, or other architectural decorations, forming part of an external wall,—All such may project beyond the general line of fronts in any street or alley, but they must be built of the same materials as are by this Act directed to be used for building the external walls to which such projections belong, or of such other proper and sufficient materials as the Official Referees may approve and permit.

And as to all balconies, verandahs of light-open-iron-work, porches, porticoes, shop-fronts, open inclosures of open areas, and steps, and water-pipes, and to all other projections from external walls not forming part thereof,—Every such projection (except such part of shop-fronts, and the frames and sashes of the windows and doors, in reference to the necessary wood-work thereof,) may stand beyond the general line of fronts in any street or alley, but they must be built of brick, tile, stone, artificial stone, slate, cement or metal, or other proper and sufficient fire-proof materials.

Projections from insulated Buildings.

PROVIDED ALWAYS, with regard to any insulated buildings, that if the projections be at the least 8 feet from any public way, and if they be at least 20 feet from any other building not in the same occupation,—then such projections are excepted from the rules and directions of this Act.

SCHEDULE (E.)—*continued.*

Wooden Shop Fronts and Shutters.

And with regard to shop-fronts and their entablatures, their shutters and pilasters and stall-boards, made of wood,—

If the street or alley in which such front is situate be of less width than 30 feet,—then no part of such shop-front must be higher, in any part thereof, than 15 feet; nor must any part, except the cornice, project from the face of a wall, whether there be an area or not, more than five inches; nor must the cornice project therefrom more than 13 inches.

If the street or alley be of a greater width than 30 feet,—then no part of such shop-front, except the cornice, must project from the face of a wall, whether there be an area or not, more than 10 inches; nor must the cornice project therefrom more than 18 inches.

And the width of such street or alley must be ascertained by measuring the same, as hereinafter directed with regard to the widths of streets and alleys.

And the wood-work of any shop-front must not be fixed nearer than $4\frac{1}{2}$ inches to the centre line of a party-wall.

And with regard to such wood-work; If it be put up at such distance of $4\frac{1}{2}$ inches,—then a pier or corbel built of stone or of brick or other incombustible material, and of the width of $4\frac{1}{2}$ inches at the least, must be fixed in the line of the party-wall, so as to be as high as such wood-work, and so as to project one inch at the least in front of the face thereof.

And the height of every shop-front must be ascertained by measuring from the level of the public foot-pavement in front of the building.

And every sign or notice-board fixed against or upon any part of any house, or other building standing close to any public way, must be so fixed that the top shall be within 18 feet at the most above the level of such public way.

Projections beyond the general Line of Buildings and from other external Walls.

And with regard to buildings already built or hereafter to be rebuilt, as to bow windows o other projections of any kind,—

Such projections must neither be built with, nor be added to any building on any face of an external wall thereof, so as to extend beyond the general line of the fronts of the houses (which general line may be determined by the surveyor), except so far as is hereinbefore provided with regard to porticoes projected over public ways, and with regard to projections from face-walls and shop-fronts; nor so as to overhang the ground belonging to any other owner; nor so as to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto, on any side thereof.

SCHEDULE (F.)—(*see* §. 5.)

RULES concerning CHIMNIES hereafter built or rebuilt.

Construction.

With regard to chimnies and chimney stacks, in reference to the construction thereof,—

The foundations and footings of every such chimney and chimney stack must be built similar to those of the wall in or adjoining to which it shall be.

And the brick-work of every flue in any party-wall must be built from the foundation of such wall of the full thickness required for such flue; so that the brick-work of such flue shall not in any part thereof oversail or overhang any part of such party-wall.

And every stack containing two or more flues (except angle chimnies) must be built from the foundation to the top thereof without any corbelling over whereby any upper part of the brick-work of such stack shall oversail, or overhang, any lower part of the brick-work on the front thereof.

Nevertheless, with regard to buildings of the First Rate and extra First Rate,—The jambs, breast and flue of any single chimney may be built upon brick, stone, or iron corbels, above the ceiling of the third story of every such building.

And with regard to buildings of the second and third rates,—The jambs, breast and flue in any single chimney may be built upon brick, stone or iron corbels, above the ceiling of the second floor of every such building.

But the projection both of such jambs and breast, must not in any case exceed nine inches before the face of the wall or stack to which the same shall adjoin.

And with regard to angle chimnies,—Such chimnies may be built in the internal angle of any building, so that the width of the breast thereof do not exceed five feet; and so that it be properly supported on iron-girders, with brick-arches, or on strong stone-landings, not less than four inches thick, and tailed at least nine inches into each of the two walls forming such angle.

Dimensions

SCHEDULE (F.)—*continued.*

Dimensions and Materials.

And with regard to chimnies, in reference to the dimensions of the jambs thereof,—
The jambs of every chimney must not be less than 8½ inches wide on each side of such opening.
And with regard to chimnies and flues, in reference to the thickness of the brick-work thereof,—
The breast of every chimney, and the front, back, withe or partition, of every flue, must be at the least 4 inches in thickness of sound bricks, properly bonded, and the joints of the work must be filled in with good mortar or cement, and all the inside thereof, and also the outside or face thereof, next the interior of any building must be rendered or pargetted.
And with regard to flues, in reference to the dimensions thereof—No flue may be used for a smoke flue which is of less internal diameter in any section than 8½ inches.

Timber or Wood-work.

And with regard to chimnies, in reference to timber,—
No timber must be placed over any opening for supporting the breast of any chimney; but there must be an arch of brick or stone over the opening of every such chimney, to support the breast thereof; and an iron bar or bars must be built into the jambs, at the least nine inches on each side, to tie in the abutments whenever the breast projects more than 4½ inches from the face of the wall, and the jamb on either side is of less width than two-thirds of the opening.
And no timber or wood-work must be placed or laid in any wall under any chimney opening within 18 inches at the least of the surface of the hearth to the fire-place of such chimney opening.
And as to any timber or wood-work, in reference to the fixing thereof in or against any wall containing flues or against any chimney-breast or chimney-jamb,—
If timber or wood work be affixed to the front of any jamb or mantle, or to the front or back of any chimney or flue,—then it must be fixed by iron nails or holdfasts, or other iron fastenings, which must not be or be driven nearer than four inches to the inside of any flue or to the opening of any chimney, and such timber or wood-work must not be nearer than nine inches to the opening of any chimney.
And no timber must be laid or placed within three inches of the face or breast, back, side or jamb of any flue, or of any chimney opening where the substance of brick-work or stone-work shall be less than 8½ inches thick, nor must any flooring-board, batten, ground, skirting, or other lining or fitting, of wood, nor any wood staircase, nor any thing else of wood, be fixed or placed against, or near to the face or breast, back, side or jamb, of any flue, fire-place or chimney opening, unless and until the brick or stone-work constituting the same shall have been thoroughly and efficiently rendered or pargetted with proper mortar or stucco, and such renderiug must be in every case in addition to four inches at least of solid fire-proof structure.

Slabs and Hearths.

And a slab or slabs of brick, tile, stone, slate, marble or other proper and sufficient substance, at the least 12 inches longer than the opening of every chimney when finished, and at the least 18 inches in front of the arch over the same, must be laid before the opening of every chimney.
And in every floor, except the lowest or first floor, such slab or slabs must be laid wholly upon stone or iron bearers, or upon brick trimmers; but in the lowest or first floor, they may be laid on a brick fender, or bedded on the solid ground.
And the hearth of every chimney must be laid and bedded wholly on brick or stone, or other incombustible substance, which must be solid for a thickness of nine inches at the least, beneath the surface of any such hearth.

Backs.

And as to the back of every chimney-opening of every building (except backs of chimnies in the first floor of buildings of the Fourth Rate),—Every such back, in the lowest or first floor, must be at the least 13 inches thick from the hearth to the height of 12 inches above the mantle, and in every other floor, at the least 8½ inches thick up to the same relative height.
And as to the backs of chimney-openings in the first floor of buildings of the Fourth Rate,—Such backs must be at the least 8½ inches thick, to the height of 12 inches at the least above the level of the mantle:
PROVIDED always, That if the chimney be built in any wall, not being a party wall,—then the back of every such chimney-opening may be 4½ inches less than the several thicknesses above described.

Chimney-openings back to back.

And as to backs of all such chimney-openings,—If two chimnies be built back to back,—then the thickness between the same must be at the least of the thickness hereinbefore described for the back of one chimney-opening.

SCHEDULE (F.)—*continued.*

Angles of Flues.

And as to all flues, in reference to the angles thereof,—

If any flue be built with sufficient openings in it of not less size than nine inches square, and proper close iron doors and frames inserted in such openings, so that every part of such flue may be swept by machinery,—then every angle in such flue may be of any degree.

But if it be not so built,—then every such angle must be 135 degrees at the least.

And every salient or projecting angle within a flue must be rounded off four inches at the least, and protected by a rounded stone, or iron, bar.

Close Fires.

And as to every oven, furnace, cokel or close fire, used for the purpose of trade or manufacture,—It must be six inches at the least distant from any party-wall, and must not be upon nor within a distance of 18 inches of any timber or wood work.

And the floor on or above which such oven, furnace, cokel or close fire shall be built or fixed, must be formed and paved under, and for a distance of two feet all round, the same, with stone, brick, tile or slate at the least two inches thick, or other proper incombustible and non-conducting materials.

Chimney Shafts.

And as to chimney shafts or flues,—

Every chimney-shaft or flue hereafter built, raised or repaired, must be carried up in brick or stone work all round, at least four inches thick, to a height of not less than three feet above the highest part of such portion of the roof, flat or gutter adjoining thereto, measured at the point of junction.

And as to any chimney-shaft, (except that of a steam-engine, brewery, distillery or manufactory)—The brick or stone work of such shaft or flue must not be built higher than eight feet above the slope, flat, or gutter, of the roof which it adjoins, measured from the highest point of junction, unless such chimney-shaft be built of increased thickness, or be built with, and bonded to, another chimney-shaft, or be otherwise rendered secure.

And as to the chimney shaft for the boilers of any steam-engine, or for any brewery, distillery or manufactory,—Such shaft may be erected of any height, so that it be built in such manner, and of such strength and dimensions, as shall be satisfactory to the official referees, upon special application in each case.

Chimney-Pots, Tubes, &c.

And as to earthen or metal chimney-pots, tubes, funnels, or cowls of any description whatsoever,—No such pot, tube, funnel or cowl must be fixed so as that the top of it be higher than four feet above the brick or stone work of the flue on which the same shall be placed; and every such pot, tube, funnel or cowl must be fixed two feet at the least into the brick or stone-work of the flue on which it shall be placed.

Smoke Pipes.

And as to any metal or other pipe or funnel for conveying smoke, heated air, or steam, in reference to the position thereof,—Such pipe or funnel must not be fixed against or in front of any face of any building in any street or alley, nor on the inside of any building nearer than 14 inches to any timber or other combustible material.

Cuttings into Chimneys.

And as to every chimney-shaft, jamb, breast or flue already built, or which shall be hereafter built, in reference to cutting the same,—No such erection shall be cut into for any other purpose than the repair thereof, or for the formation of soot-doors, or for letting in, removing, or altering, stove-pipes or smoke-jacks, except as directed for building an external wall against an old sound party-wall.

SCHEDULE (G.)—(*see* §. 5.)

RULES concerning Roof Coverings.

Materials.

With regard to Roof coverings, in reference to the materials thereof;—

If the external parts of any roof, flat, or gutter, of any building, or of any projection therefrom, and of any turret, dormer, lantern-light and other erection on the roof or flat of any building,

SCHEDULE (G.)—*continued.*

building, be hereafter built or rebuilt, stripped, ripped or uncovered,—then every such part (except the door-frames and doors, window-frames and sashes of such turrets, dormers, lantern-lights or other erections) must be covered with slates, tiles, metal, glass, artificial stone or cement, and such excepted parts may be made of such wood as shall be necessary.

Rain Water Pipes.

And with regard to the roof, flat and gutter of any building, and of any projection therefrom, and also balconies, verandahs and shop-fronts,—They must be so arranged and constructed, and so supplied with gutters and pipes, as to prevent the water therefrom dropping on to, or running over, any public way.

SCHEDULE (H.)—(*see* §. 5 & 51.)

RULES concerning DRAINS to Buildings hereafter built.

Drains into Sewers.

WITH regard to the Drains of buildings of any class, and of every addition thereto;—

Before the several walls of any such building shall have been built to the height of 10 feet from their foundations the drains thereof must have been properly built and made good, (that is to say) if there be within 50 feet from any front of the building, or from the enclosure about the building, a common sewer into which it is lawful and practicable to drain,—then into such common sewer; and if there be not in such situation and within such distance any such common sewer,—then to the best outlet that can be obtained, so as to render, in either case, such drains available for the drainage of the lowest floor of such building, or addition thereto, and also of its areas, water-closets, privies and offices (if any).

And the inside of the main drains under and from every building for carrying off soil must be of, or be equal to, an area at least nine inches in diameter.

And every such drain must be laid to a fall or current of, at the least, half an inch to ten feet, and so as that the whole of every such drain within the walls of such building, shall be wholly covered over under the lowest floor, and independently thereof.

And every such drain within the walls of such building must be built and covered over with brick, stone or slate, and so as to render the drain air-tight.

And every part of such drain inside and outside the walls of every building must be built of brick, tile, stone or slate, set in mortar or cement.

Cesspools and Privies.

And with regard to Cesspools and Privies;—

If there be a common sewer within 50 feet from any front of, or from the enclosure about, any house or other building,—then a cesspool must not be made for the reception of drainage from such house or other building, unless there be, or shall be built, a good and sufficient drain from such cesspool to such common sewer.

And if any cesspool be built under a house or other building,—then such cesspool must be built air-tight.

And every privy built in the yard or area of any building, or under any street or alley, must have a door, and be otherwise properly inclosed, screened and fenced from public view.

SCHEDULE (I.)—(*see* §. 5 & 52.)

RULES concerning STREETS and ALLEYS hereafter formed.

Width.

WITH regard to every such Street or Alley, hereafter to be formed, in reference to the width thereof;—Every Street or Alley must be of, at the least, the following width, from front to front, in every part thereof respectively; that is to say,—

Every Street must be of the width of 40 feet at the least: but if the buildings fronting any street be more than 40 feet high from the level of the street,—then such street must be of a width equal, at the least, to the height of the buildings above such level.

Every Alley must be of the width of 20 feet at the least; but if the buildings fronting any alley be more than 20 feet high from the level of the alley,—then such alley must be of a width equal, at the least, to the height of the buildings above such level.

And the carriage way of every street must be at the least 24 feet wide;

And before every row of houses there must be a footway; and every such footway must be at the least five feet wide.

SCHEDULE (I.)—*continued.*

Entrances to Alleys.

And with regard to every such Alley in reference to the entrance thereof,—Every Alley must have two entrances thereto, each being, at the least, of the full width of the Alley, and one of the two, at the least, open from the ground upwards.

Measurement of Width.

And with regard both to such Streets and Alleys,—The aforesaid width is to be ascertained by measuring (at right angles to the course thereof), from front to front of the buildings on each side of such Street or Alley.

SCHEDULE (K.)—(*see* §. 5 & 53.)

RULES concerning DWELLING-HOUSES hereafter built or rebuilt, with regard to Back-yards and Areas, and Rooms under-ground, and in the Roof.

Back-yards.

WITH regard to back-yards or open spaces attached to dwelling-houses;—

Every house, hereafter built, must have an inclosed back-yard or open space of, at the least, one square, exclusive of any building thereon.

And if any house already built, be hereafter rebuilt,—then, unless all the rooms of such house can be lighted and ventilated from the street, or from an area of the extent of, at the least, three-quarters of a square, into which the owner of the house to be rebuilt is entitled to open windows for every room adjoining thereto, there must be, above the level of the floor of the third story, an open space of at least three-quarters of a square.

And with regard to every building of the first class,—

Every such building must be built with some roadway, either to it, or to the enclosure about it, of such width as will admit to one of its fronts of the access of a scavenger's cart, of the ordinary size of such carts.

Lowermost Rooms.

And with regard to the lowermost rooms of houses being rooms of which the surface of the floor is more than three feet below the surface of the footway of the nearest street or alley, and to cellars of buildings hereafter to be built or rebuilt;—

If any such room or cellar be used or intended to be used as a separate dwelling,—then the floor thereof must not be below the surface or level of the ground immediately adjoining thereto, unless it have an area, fire-place and window as required for rooms and cellars of existing buildings let separately and used as a separate dwelling, and unless it be properly drained.

And with regard to every such lowermost room or cellar in any existing building used or intended to be used as a separate dwelling;—

There must be an area not less than three feet wide in every part, from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back or external side thereof, and extending the full length of such side.

And such area, to the extent of at least five feet long and two feet six inches wide, must be in front of the window of such room or cellar, and must be open, or covered only with open iron gratings.

And there must be made for every under-ground dwelling-room an open fire-place, with proper flue therefrom.

And there must be a window-opening of, at the least, nine superficial feet in area; which window-opening must be fitted with a frame filled in with glazed sashes, of which, at the least, six superficial feet must be made to open for ventilation.

Attic Rooms.

And with regard to rooms in the roof of any building hereafter built or rebuilt, in reference to the number of floors of rooms in the roof, and to the height of such rooms;—There must not be more than one floor of such rooms, and such rooms must not be of a less height than seven feet, except the sloping part, if any, of such roof, which sloping part must not begin at less than three feet six inches above the floor, nor extend more than three feet six inches on the ceiling of such room.

Rooms in other Parts.

And with regard to rooms in other parts of the building, in reference to the height thereof,—Every room used or intended to be used as a separate dwelling must be of, at the least, the height of seven feet from the floor to the ceiling.

SCHEDULE (L.)—(*see* §. 77.)

LIST of FEES payable to SURVEYORS under this Act.

Fees for New Buildings.

FOR any building erected on old or new foundations, as follows:—

	Dwelling-House Class.			Warehouse Class.			Public Buildings Class.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
If the building be of the 1st rate - -	3	10	–	3	10	–	3	10	–
Ditto - - extra 1st ditto - -	5	5	–	-		-	5	5	–
Ditto - - - - 2d ditto - -	3	3	–	3	3	–	3	3	–
Ditto - - - - 3d ditto - -	2	10	–	2	10	–	2	10	–
If the building be of the 4th rate, and exceed two stories in height - - - -	2	2	–	2	2	–	2	2	–
If the building be of the 4th rate, and do not exceed two stories in height - - - -	1	10	–	2	2	–	1	10	–
And with regard to buildings of the warehouse class, a further fee to be paid in respect of any additional 35 squares, or portion of 35 squares, in any such building, beyond the first 35 squares - - - - - -	-	-	-	- - equal to one-half of the above fees respectively.					
And for inspecting and reporting to the Official Referees (s. 24) on party-walls and intermixed buildings,—									
If the building be of the 1st rate - -	3	10	–	3	10	–	3	10	–
Ditto - - extra 1st ditto - -	5	5	–	-		-	5	5	–
Ditto - - - - 2d ditto - -	3	3	–	3	3	–	3	3	–
Ditto - - - - 3d ditto - -	2	10	–	2	10	–	2	10	–
If the building be of the 4th rate, and exceed two stories in height - - - -	2	2	–	2	2	–	2	2	–
If the building be of the 4th rate, and do not exceed two stories in height - - -	1	10	–	2	2	–	1	10	–
For every insulated building - - - -	1	1	–	1	1	–	1	1	–

For every detached building built for the purposes of trade or collection of toll - - - - - - - - - - - - - - 10*s.* 6*d.*

For every attached or detached building, distinctly rated, such fee as is hereby imposed in respect of additions to, or alterations of, buildings of the rate to which such attached or detached buildings shall belong.

Fee for Additions or Alterations.

For every addition or alteration made to any building, which shall involve the execution of works subject to the regulations of this Act, the following fees; that is to say,—

	£.	s.	d.
If the building be of the 1st rate - - - - -	1	15	–
Ditto - - extra 1st ditto - - - - -	2	10	–
Ditto - - - - 2d ditto - - - - -	1	10	–
Ditto - - - - 3d ditto - - - - -	1	5	–
If the building be of the 4th rate, and exceed two stories in height - - - - - - - - -	–	15	–
If the building be of the 4th rate, and do not exceed two stories in height - - - - - - - -	–	10	–

And with regard to buildings of the warehouse class, a further fee, to the amount of half of the above fees respectively, according to the rate of such building, to be paid in respect of every additional 35 squares, or portion of 35 squares, in any such building.

SCHEDULE (L.)—*continued.*

Fees for special Duties.

For the following special duties performed by any Surveyor, according to the enactments of this Act, where such duties shall not be performed incidentally to the building or rebuilding of any building in respect of which any other fees may be payable; that is to say,—

For attending to the cutting away of chimney-breasts for external walls—

	£.	s.	d.
If the building be of the 1st rate - - - - -	2	2	–
Ditto - - extra 1st ditto - - - - -	2	2	–
Ditto - - - - - 2d ditto - - - - -	3	3	–
Ditto - - - - - 3d ditto - - - - -			
If the building be of the 4th rate, and exceed two stories in height - - - - - - - - - -	1	1	–
If the building be of the 4th rate, and do not exceed two stories in height - - - - - - - -	–	10	6
For condemning party fence walls - - - - - -	–	10	6
For the inspection and removal of projections, &c. in imminent danger, and ruinous buildings - - - -	–	10	–
For surveying party-walls not kept in repair, and consenting to notice of repair being served - - - - -	–	10	–
For inspecting arches or stone floors over public ways - -	–	10	–
For inspecting formation of openings in party-walls - -	–	10	–
For inspecting chimney-shafts, pots, funnels, &c., above *certain* heights - - - - - - - - - -	–	10	–

Fees for special Services not expressly provided for.

For any service performed by any Surveyor which is required by this Act, but not comprehended under any of the foregoing heads,—

Such fee, not exceeding 2*l.*, as the Official Referees shall by writing under their hands order and appoint, with the consent of the Commissioners of Works and Buildings.

SCHEDULE

SCHEDULE (M.)

Metropolitan Buildings Act.

SUMMARY of PROCEEDINGS to be taken or observed before and after NOTICES in relation to Buildings.

Section of the Act.	Stages of Proceeding.	Steps to be taken.	By whom taken.	With reference to whom taken.	Form of Notice to be given.	Place of Notice.	Subsequent Proceedings.
	WORKS GENERALLY.						
§. 13.	Before commencing the operations specified in this section.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 1. -	At the District Surveyor's office	£. 20 penalty for neglect. Existing buildings altered, &c. without notice, to be abated as a nuisance.
§. 13.	Before resuming operations, after being suspended for a period exceeding three months.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 2. -	At the District Surveyor's office	£. 20 penalty for neglect.
§. 13.	On change of Architect, Master Builder, or other Superintendent.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 3. -	At the District Surveyor's office	£. 20 penalty for neglect.
§. 14.	On the occurrence of any irregularity in building operations.	48 hours' notice to be given -	By the District Surveyor -	To the Builder - - -	*See* Form No. 4. -	At the Builder's office - -	Proceedings by Surveyor or Official Referees.
§. 37.	As to openings hereafter made in external walls abutting on adjoining ground or buildings.	Notice to stop up within one month.	By adjoining Owner - -	To Owner of external wall -	*See* Form No. 5. -	According to §. 109, &c. -	To be stopped up.
	SPECIAL SUPERVISION.						
§. 15.	On completion of the carcass of a building subject to special supervision.	Notice for inspection thereof -	By the Architect or Builder -	To the Official Referees -	*See* Form No. 6. -	At the Official Referees' office	Survey and approval, or disapproval by Official Referees. Prohibition of use of irregular buildings of this class, and penalty of £. 500 per day.
§. 15.	On completion of amendments, or the entire completion of a building, subject to special supervision.	Notice relative thereto - -	By the Architect or Builder -	To the Official Referees -	*See* Form No. 7. -	At the Official Referees' office	Survey and certificate.
	PARTY-WALLS, &c.						
§. 20, 21, 24, 25, 26.	Before survey, repair or pulling down of a party-wall, party-arch, or party-fence-wall.	One Month before survey, and four months' notice before operations.	By the Building Owner. *See Definition*, §. 13.	To the adjoining Owner -	*See* Form No. 8. -	According to §. 109, &c. -	Inspection by Surveyor. §. 24.
§. 24.	In the same case - - - -	Notice for survey - - -	By the Building Owner. *See Definition*, §. 13.	To the District Surveyor and Official Referees.	*See* Form No. 9. -	At the District Surveyor's and the Official Referees' offices.	Inspection by Surveyor, and report to Official Referees.
,,	In the same case - - - -	Appointment of survey - -	By the District Surveyor -	To the Owners and Agents, &c.	*See* Form No. 10. -	To Building and adjoining Owners and Agents.	Inspection by Surveyor, and report to Official Referees.
§. 33, 34.	As to pulling down rooms in intermixed property, and repairing or rebuilding party-fence-walls.	Notice of intention to build a party-wall, or as directed by Official Referees.	By the Building Owner -	To the adjoining Owner and District Surveyor. §. 20.	*See* Form No. 11. -	According to §. 109, &c. -	Erection of wall.
,,	In the same case - - - -	Notice for inspection thereof -	By the Building Owner -	To the District Surveyor and the Official Referees.	*See* Form No. 12. -	At the District Surveyor's and Official Referees' office.	Inspection by Surveyor, and report to Official Referees.
,,	In the same case - - - -	Appointment of survey - -	By the District Surveyor -	To the Owners and Agents, &c.	*See* Form No. 13. -	To Building and adjoining Owners and Agents.	Inspection by Surveyor, and report to Official Referees.
,,	As to pulling down a timber partition, and erecting or raising a party-wall.	Four months' notice of intention to build or raise a party-wall.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 14. -	According to §. 109, &c. -	Erection of wall, or raising of wall.
§. 28.	Excavation against existing party-wall for a deeper story, and for the erection of an external wall.	One month's notice of intention to cut away footings or breast or shaft of a party-wall.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 15. -	According to §. 109, &c. -	Execution of operations.
§. 38.	Building a party-wall on line of junction of two pieces of vacant ground.	One month's notice for consent of adjoining Owner.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 16. -	According to §. 109, &c. -	Execution of operations.
§. 38.	In the same case - - - -	Notice of consent - -	By the adjoining Owner -	To the Building Owner -	*See* Form No. 17. -	According to §. 109, &c. -	Erection of wall.
	MODIFICATIONS.						
§. 22, 23.	Modification of intended work to suit adjoining owner.	Seven days' notice for consent	By the adjoining Owner -	To the Building Owner -	*See* Form No. 18. -	According to §. 109, &c. -	If consent not given, commencement of works must be delayed for decision of Official Referees.
,,	In the same case - - - -	Application for decision -	By the adjoining Owner -	To the Official Referees -	*See* Form No. 19. -	At the Official Referees' office -	Delay in commencing of operations.
,,	In the same case - - - -	Notice of application - -	By the adjoining Owner -	To the Building Owner -	*See* Form No. 20. -	According to §. 109, &c. -	,, ,,

SCHEDULE (M.)—*continued.*

FORMS OF NOTICES AS TO WORKS.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

1.—*NOTICE by the Builder to the District Surveyor, Two Days before commencing Operations.*

I DO hereby give you notice, That I intend to (1) and that C. D., of is to be the (2) of the works to be executed; and that the said works will be begun on the day of

Dated this day of

(Signature and Address.)

*** Certain Penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

2.—*NOTICE by the Builder to the District Surveyor, Two Days before resuming Operations.*

I DO hereby give you notice, That I intend to re-commence the (3) and that C. D. of is to be the (2) of the works to be resumed; and that the said works will be continued on the day of

Dated this day of

(Signature and Address.)

*** Certain Penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

3.—*NOTICE by the Builder to the District Surveyor, as to Change of Builder.*

I DO hereby give you notice, That, with reference to the works specified in my Notice of last E. F. (2) is to be placed in charge of the said works, instead of C. D. the (2) mentioned in the said Notice.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. s. 14, 1844.

4.—*NOTICE by the District Surveyor to the Builder, as to any thing done in the Erection of any Building not conformably to the Act.*

I DO hereby give you notice, That the (4) now in progress (5) situate in (6) is not conformable to the statute in the portions thereof under mentioned; and I require you within Forty-eight hours from the date hereof to amend the same.

Dated this day of at the hour of by the clock.

Note.—Irregularities referred to.

(Signature.)

METROPOLITAN

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(1) *Describing the erection or intended operation in general terms, and whether it relate to any of the following matters:—*
"The erection of any building;"
or, "The making of any addition to or alteration in any building;"
or, "The building, pulling down, re-building, cutting into or altering any party-wall, external wall, chimney-stack or flue;"
or, The making of "any opening in any party-wall."
or, The doing of "any other matter or thing by this Act placed under the supervision of the Surveyor."

(2) *Insert* "Architect," *or* "Builder," *or other Superintendent to have charge of the works.*

(3) *Describing in general terms the works referred to in notice No.* 1, *and which works may have been suspended three months.*

(4) *Insert* "building," *or* "alterations," *or* "building operations," *as the case may be.*

(5) *Insert* "under your superintendence" *or* "in the building belonging to you," *as the case may be.*

(6) *Insert the situation, as the case may be.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. s. 37, 1844.

5.—*NOTICE by an Owner or Occupier to an adjoining Owner or Occupier, to stop up an Opening in an External Wall abutting on his Premises.*

I DO hereby give you notice, That if within One month from the date hereof you do not stop up the opening made in the external wall of your premises situate in (1) and which abuts on my (2) I shall, at your expense, cause the same to be stopped up, conformably to the statute.

Dated this day of

(Signature and Address.)

FORMS OF NOTICES AS TO SPECIAL SUPERVISION.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 15, 1844.

6.—*NOTICE by an Architect or Builder to the Official Referees, as to Completion of the Carcass of a Building subject to special Supervision.*

I DO hereby give you notice, That the Building now erecting under my superintendence in (1) being a building of the (3) and having been completed to the full height of the walls thereof, and the timbers, floors, roofs and partitions being fixed, I require you, in accordance with the statute, should you be of opinion that the building is subject to special supervision, to survey the same, and to certify accordingly.

Dated this day of

(Signature and Address.)

[*** A Penalty of £.500 per day attach to the use of any such building without its being certified subsequent to notice as above and following.]

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 15, 1844.

7.—*NOTICE by an Architect or Builder to the Official Referees, as to Completion of Amendments, and of Buildings subject to special Supervision.*

I DO hereby give you notice, That the building now erecting under my superintendence in (1) being a building of the (3) and having been completed in pursuance of your survey and notice subsequent, I require you, in accordance with the statute, to survey the same, and to certify accordingly.

Dated this day of

(Signature and Address.)

[*** This Notice will be used both with reference to the completion of amendments and to the entire completion of a building.]

FORMS OF NOTICES AS TO PARTY-WALLS, &c.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 20, 21, 24, 25, 26, 1844.

8.—*NOTICE to be given (One Month before Survey, and Four Months before commencing Operations) by an Owner or Occupier, to an adjoining Owner or Occupier, that the Party-wall, or Party-arch, or Party-fence-wall is out of Repair.*

I DO hereby give you notice, That I apprehend that the (4), or some part thereof, on the line of junction between my (5) situate, &c., and the (5) thereto adjoining, situate on the side thereof, is so far out of repair (6) as to render it necessary to (7) such wall or some part thereof; and that I intend to have such wall surveyed, pursuant to the statute; and also, that I have given notice to the Surveyor of the District and to the Official Referees to survey the premises, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt, and to certify accordingly.

Dated this day of

(Signature and Address.)

METROPOLITAN

(1) *Specify the situation.* (2) *Insert* "ground" *or* "building adjoining."
(3) *Insert* "First rate of Second class," *or* "of the Third class," *as the case may be.*
(4) *Insert* "party-wall," *or* "party-arch" *or* "party-fence-wall," *as the case may be.*
(5) *Insert* "house," *or* "building," *or* ground," *as the case may be.*
(6) *Insert when required* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."
(7) *Insert* "repair," *or* "pull down and rebuild," *as the case may be.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 20, 1844.

9.—*NOTICE, in the same Case, to the Surveyor and Official Referees.*

I DO hereby give you notice, That I apprehend that the (1) or some part thereof, on the line of junction between my (2) situate in and the (2) thereto adjoining, situate on the side thereof, is so far out of repair (3) as to render it necessary to repair or pull down and rebuild such wall, or some part thereof; and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more Surveyors or Agents appointed by me, as under mentioned, or by C. D., the owner of the adjoining property, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt; and I do hereby also intimate that I have served a notice on C. D. to the like effect.

Dated this day of

(Signature and Address.)

Names and Addresses of one or more Surveyors or Agents of a Building-Owner.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 20 and 24, 1844.

10.—*NOTICE, in the same Case, by the District Surveyor, to the Building Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, Surveyor of the district, do hereby give you notice, That, in pursuance of an application made to the Official Referees and to me in that behalf, it is my intention to proceed to view the premises (4) situate in for the purpose of certifying the condition of the (1), and whether any part thereof is so far out of repair as to require to be either wholly or in part repaired, or pulled down and rebuilt; and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more Surveyors or Agents on behalf of the building owner and the adjoining owner.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 34, 1844.

11.—*NOTICE to be given, One Month before Survey, and Four Months before commencing Operations, by an Owner to an adjoining Owner.*

I DO hereby give you notice, That I intend to (5) and that I intend to have such (6) surveyed conformably to the statute; and that I have given notice to the District Surveyor and to the Official Referees to survey the premises, and to certify accordingly.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 34, 1844.

12.—*NOTICE in the same Case to the Surveyor and Official Referees.*

I DO hereby give you notice, That I intend to (5) and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more Surveyors or Ageuts appointed by me, as under mentioned, or by C. D., the owner of the adjoining property, for the purpose of certifying whether the whole or any part (7) ought to be pulled down and rebuilt; and I do hereby also intimate that I have served a notice on C. D. to the like effect.

Dated this day of

(Signature and Address.)

Names and Addresses of one or more Surveyors or Agents for Building-Owner.

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(1) *Insert* "party-wall," *or* "party-arch," *or* "party-fence-wall," *as the case may be.*
(2) *Insert* "house," *or* "building," *or* "gound," *as the case may be.*
(3) *Insert, when required,* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."
(4) *Designated by number or other name.*
(5) *Specify the kind of operation, as to whether it be intended—*
"To raise a party-fence-wall;"
or, "To repair or rebuild a party-fence-wall;"
or, "To pull down and rebuild rooms in intermixed property, &c.;"
and specifying the situation, &c.
(6) *Insert* "party-fence wall," *or* "rooms in intermixed property."
(7) *Specify the kind of operation intended.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 34, 1844.

13.—*NOTICE in the same Case by the District Surveyor to the Building Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, Surveyor of the District, do hereby give you notice, That, in pursuance of an application made to the Official Referees and to me in that behalf, it is my intention to proceed to view the premises (1) situate in for the purpose of certifying whether any part of such (2) require to be (3) and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more Surveyors or Agents whom the parties concerned shall appoint for that purpose.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 1844.

14.—*NOTICE to be given Four Months before commencing Operations, by an Owner to an adjoining Owner.*

I DO hereby give you notice, That I intend to (4) pursuant to the Statute.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 28, 1844.

15.—*NOTICE of Intention to build an external Wall against existing Party-wall, and for that purpose to cut away Footings, Breast and Shaft of an existing Party-wall.*

I DO hereby give you notice, That it is my intention, one month after the date hereof, to build an external wall against the existing party-wall by which our premises are parted, situate , and to cut away such portion of the footings or chimney breast or shaft in such party-wall as will be necessary for that purpose.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 38, 1844.

16.—*NOTICE of Desire to build a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I desire to build partly on my land or ground adjoining your vacant ground, and partly on your vacant ground, on the line of junction of the said premises, (5) which will be of the under-noted thicknesses and dimensions; and should you consent thereto, I require you to signify such consent in writing on or before the day of next.

Dated this day of

(Signature and Address.)

Note of the Thickness and Dimensions.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 38, 1844.

17.—*NOTICE of Consent to the building of a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I consent to the building of a (5) partly on my land or ground adjoining your vacant ground, on the line of junction of the said premises, which I require to be of the under-mentioned thicknesses and dimensions, and other particulars.

Dated this day of

(Signature and Address.)

Note of the Thickness and Dimensions, and other Particulars.

METROPOLITAN

(1) *Designated by number or other name.* (2) *Specify the kind of operation intended.*
(3) *Insert* "raised," *or* "repaired," *or* "pulled down and rebuilt," *as he case may be.*
(4) *Specify the kind of operation, as to whether it be intended—*
"To pull down a timber partition, and instead thereof to build a party-wall," *where no survey is required.*
or "To raise a party-wall."
(5) *Insert* "party-wall", *or* "party-fence-wall" *or* "external wall," *as the case may be.*

SCHEDULE (M.)—*continued.*

FORMS OF NOTICES AS TO MODIFICATION OF INTENDED BUILDING OPERATIONS.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 22, 23, 1844.

18.—*REQUISITION to a Building Owner by an adjoining Owner as to Modification or Delay of intended Work on his behalf.*

I DO hereby give you notice, That I require you to (1) the works specified in your notice of the day of in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by you; and if you do not consent hereto, or dissent therefrom, within days, then, in pursuance of the statute, you are hereby required to delay your intended operations until the Official Referees shall have determined thereon.

Dated this day of

(Signature and Address.)

Note of Modifications.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 22, 23, 1844.

19.—*NOTICE by an adjoining Owner to the Official Referees as to the Modification or Delay of intended Works of a Building Owner.*

I DO hereby give you notice, That C. D., of having specified in his notice of the day of certain works to be executed subsequent to the day of next; and I having served upon him a requisition in reference to the (2) of the works so intended by him, in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by him, and he not having attended thereto; it is my desire that a survey be made in pursuance of the statute, with reference to such works, and the notices referred to.

Dated this day of (3)

(Signature and Address.)

Note of Modifications.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 22, 23, 1844.

20.—*NOTICE by an adjoining Owner to a Building Owner as to Application to the Official Referees for Survey of intended Works with reference to the Modification or Delay thereof.*

I DO hereby give you notice, That, in consequence of your not consenting to the (4) of the works intended by you, as specified in my requisition of the day of last, I have applied to the Official Referees for a survey of the premises, pursuant to the statute.

Dated this day of (5)

(Signature and Address.)

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(1) *Insert* "modify as under-noted," *or* "delay until the day of ," *as the case may be.*
(2) *Insert* "modification as under-noted," *or* "delay until the day of ," *as the case may be.*
(3) *Within seven days after the previous requisition.*
(4) *Insert* "modification" *or* "delay," *as the case may be.*
(5) *Within seven days after the previous requisition.*

A

B I L L

[AS AMENDED BY THE COMMITTEE, ON RE-COMMITMENT, AND ON REPORT]

For better regulating the Buildings of the Metropolitan Districts, and to provide for the Drainage thereof.

[N.B.—*The Clauses marked* (A.) *to* (H.) *were added by the Committee, and Clause* (I.) *on the Report.*]

Preamble.

WHEREAS by the several Acts mentioned in Schedule (A.) to this Act annexed, provisions are made for regulating the construction of Buildings in the Metropolis, and the Neighbourhood thereof, within certain limits therein set forth: BUT FORASMUCH as Buildings have since been extended in nearly continuous lines or streets far beyond such limits, so that they do not now include all the places to which the provisions of such Acts, according to the purposes thereof, ought to apply; and moreover such provisions require Alteration and Amendment; IT IS EXPEDIENT to extend such Limits, and otherwise to amend such Acts:

Extension of Limits, and amendment of Law.

Improvement of Drainage.

AND FORASMUCH as in many parts of the Metropolis and the Neighbourhood thereof the drainage of the Houses is so imperfect as to endanger the health of the Inhabitants, IT IS EXPEDIENT to make provision for facilitating and promoting the Improvement of such Drainage:

Securing a sufficient width of Streets, &c.

AND FORASMUCH as by reason of the narrowness of Streets, Lanes and Alleys, and the want of a thoroughfare in many places, the due ventilation of crowded neighbourhoods is often impeded, and the health of the Inhabitants thereby endangered, and from the close contiguity of the opposite houses, the risk of accident by fire is extended; IT IS EXPEDIENT to make provision with regard to the Streets and other ways of the Metropolis, for securing a sufficient width thereof:

Improper use of Buildings.

AND FORASMUCH as many buildings and parts of buildings unfit for dwellings are used for that purpose, and other buildings fit for

dwellings are improperly used, whereby disease is engendered, fostered and propagated; IT IS EXPEDIENT to discourage and prohibit such use thereof:

Regulation of explosive Works.

AND FORASMUCH as by the carrying on in populous neighbourhoods of certain Works, in which materials of an explosive or inflammable kind are used, the risk of accidents arising from such Works is much increased; IT IS EXPEDIENT to regulate, not only the construction of the Buildings in which such dangerous Works are carried on, but also to provide for the same being carried on in Buildings at safe distances from other Buildings which are used either for habitation or for trade in populous neighbourhoods:

Regulation of deleterious Works.

AND FORASMUCH as by the carrying on of certain Works of a noisome kind, or in which deleterious materials are used, or deleterious products are created, the health and comfort of the Inhabitants are extensively impaired and endangered; IT IS EXPEDIENT to make provision for the adoption of all such expedients as either have been or shall be devised for carrying on such businesses, so as to render them as little noisome or deleterious as possible to the Inhabitants of the neighbourhood; and if there be no such expedients, or if such expedients be not available in a sufficient degree, then for the carrying on of such noisome and unwholesome businesses at safer distances from other Buildings used for habitation:

Execution of Act, and superintendence thereof.

AND FORASMUCH as great diversity of practice has obtained among the Officers appointed in pursuance of the said Acts to superintend the execution thereof in the several Districts to which such Acts apply, and the means at present provided for determining the numerous matters in question which constantly arise, tend to promote such diversity, to increase the expense, and to retard the operations of persons engaged in building; IT IS EXPEDIENT to make further provision for regulating the office of Surveyor of such several Districts, and to provide for the appointment of Officers to superintend the execution of this Act throughout all the Districts to which it is to apply; and also to determine sundry matters in question incident thereto, as well as to exercise in certain cases, and under certain checks and control, a discretion in the relaxation of the fixed rules, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business:

GENERAL PROVISIONS.

NOW for all the several purposes above mentioned, and for the purpose of consolidating the provisions of the law relating to the construction and the use of Buildings in the Metropolis and its Neighbourhood; **Be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and

GENERAL PROVISIONS.

and by the Authority of the same, THAT with regard to this Act generally, so far as relates to the operation thereof in reference to time, it shall come into operation at the following times; (that is to say) as to the Buildings, Streets and other such matters, on the First day of January One thousand eight hundred and Forty-five, and as to the districts and the officers to be appointed in pursuance hereof, on the First day of September next; AND THAT on the said First day of January all the Acts mentioned in the Schedule (A.) hereunto annexed, except so far as in the said Schedule is provided, shall be and are hereby repealed.

1. Operation of Act.

Statutes repealed.

AND BE IT DECLARED, with regard to this Act generally, so far as relates to the construction of certain terms and expressions used therein, THAT the following terms and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context, or by the nature of the subject-matter; that is to say,—

2. Construction of words.

The word "Street" to include every square, circus, crescent, street, road, place, row, mews, lane, or place along which carriages can pass, or are intended to pass; and that, whether there be or be not, in addition to the carriage-way, a footway, paved or otherwise: Street.

The word "Alley" to include any court, alley, passage, or other public place, which can be used as a footway only: Alley.

The word "Square," as applied to any area of building, to contain One hundred superficial Feet: Square.

The word "Floor" to mean the horizontal platform forming the base of any story, and to include the timber or bricks, or any other substance constituting such platform: Floor.

The word "Story" to include the full thickness of such floor, as well as the space between the upper surface of one floor and the under surface of the floor next above it; or if there be no floor, then the space between the surface of the ground and the under surface of the floor next above it: Story.

The term "external wall" to apply to every outer wall of buildings now built or hereafter to be built, which (excepting the footing thereof on one side) shall stand wholly upon ground of the owner of such buildings, and shall not be used or intended to be used as a party wall under the definition hereinafter contained, whether the same shall adjoin or not to other outer or to party walls: External Wall.

The term "party wall" to apply to every wall which shall be used, or be built in order to be used, as a separation of two or more buildings with a view to the occupation thereof by different families, or which shall be actually occupied by different families, and also every wall which shall stand upon ground not wholly belonging to the same owner to a greater extent than the projection of its footing on one side: Party Wall.

The term "already built" used in reference to buildings, to apply to buildings built before the First day of January One thousand eight hundred and Forty-five, or commenced before that day, and covered in and rendered fit for use within Twelve Months thereafter; and used in reference to streets and alleys, Already built.

to apply to all streets or alleys made or laid out before that day, and which shall be formed and rendered fit for use within Twelve Months thereafter:

Hereafter to be built.

The term "hereafter to be built," used in reference to buildings, to apply to all buildings to be built or commenced after the First day of January One thousand eight hundred and Forty-five, or which, being commenced, shall not be covered in within Twelve Months thereafter; and used in reference to streets and alleys, to apply to all streets or alleys laid out before the said First day of January, or which being laid out shall not be rendered fit for use within Twelve Months thereafter:

Parish.

The word "Parish" to include all parochial districts and extra-parochial places in which separate Churchwardens, Overseers, or Constables are appointed, and where two parishes have been united for ecclesiastical purposes, then to include such united parishes.

Owner.

The word "Owner" to apply generally to every person in possession or receipt, either of the whole or of any part of the rents or profits of any ground or tenement, or in the occupation of such ground or tenement, other than as a tenant from year to year, or a tenant at will:

Official Referees.

The term "Official Referees" to mean the persons appointed in pursuance of this Act to be Official Referees of Metropolitan Buildings:

Surveyor.

The word "Surveyor" to apply to all surveyors to be appointed in pursuance of this Act, or whose appointment is confirmed by this Act; and also to all deputy or assistant surveyors to be appointed under this Act:

The Surveyor.

The words "the Surveyor," used without any addition, to mean the surveyor in whose district the buildings, street or alley or other subject-matter shall be, or any deputy or assistant surveyor duly acting in his behalf:

Month.

The word "Month" to mean a calendar month:

The Commissioners of Works and Buildings.

The expression "The Commissioners of Works and Buildings" to mean the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings:

Justice of Peace.

The expression "Justice of the Peace" to mean a Justice of the Peace for the county, division, or liberty within which the building or other subject-matter, or any part thereof, is situate; unless it be situate within the City of London or the Liberties thereof, in reference to which any matter or thing elsewhere required or authorized to be done either by one or by two or more Justices of the Peace, may be done either by the Lord Mayor of the City of London, or by any one, two or more Justices of the Peace for the said City; or unless the subject-matter be situate in the district of any Police Court of the Metropolis, in reference to which any matter or thing elsewhere required or authorized to be done by two or more Justices may be done by one Magistrate:

Local Officers.

And, generally, whensoever the name of an officer having local jurisdiction in respect of his office is referred to, without mention of the locality to which the jurisdiction extends, such reference is to be understood to indicate the officer having jurisdiction in that place, within which is situate the building

or

or other subject-matter, or any part thereof to which such reference applies:

And, subject as aforesaid to the context, and to the nature of the subject-matter, words importing the singular number are to be understood to apply to a plurality of persons or things; and words importing the masculine gender are to be understood to apply to persons of the feminine gender; and words importing an individual, are to be understood to apply to a corporation or company, or other body of persons.

Singular and plural. Masculine and feminine. Corporate body.

3. Extent of operation of Act in reference to localities.

AND BE IT ENACTED, with regard to this Act generally, so far as relates to the operation thereof in reference to localities, THAT the operation of this Act shall extend to all places within the following limits; (that is to say)

To all such places lying on the North side or left bank of the River Thames as are within the exterior boundaries of the parishes of Fulham, Hammersmith, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford-le-Bow, Bromley, Poplar and Shadwell:

And to such part of the parish of Chelsea as lies North of the said parish of Kensington:

And to all such parts and places lying on the South side or right bank of the said River as are within the exterior boundaries of the parishes of Woolwich, Charlton, Greenwich, Deptford, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting and Wandsworth:

And to all places lying within Two hundred Yards from the exterior boundary, except the eastern part of the said boundary, which is bounded by the River Lea.

4. Power to extend the limits of Act.

AND FORASMUCH as, partly by the rapid increase of population in the neighbourhood of the districts to which this Act is to apply, and partly by the tendency of this Act to induce building speculation in such neighbourhoods in order to evade the provisions thereof, the evils which have arisen in the districts not now subject to regulation, will in all probability arise in such neighbourhoods; IT IS EXPEDIENT to make provision for the prevention of such evils; and if they should arise, for the remedy thereof, Now for those purposes, BE IT ENACTED, with regard to this Act generally, so far as relates to the application thereof to other parts and places in the neighbourhood of the districts appointed by this Act, whether such districts immediately adjoin such parts or places or not, THAT IF, from the growing increase of the population or otherwise, it shall appear to Her Majesty in Council to be expedient that the provisions of this Act should be extended to any place within Twelve Miles from Charing-cross, in the City of Westminster, THEN it shall be lawful for Her Majesty in Council to direct, by Order in Council, that at or from a time to be named in such Order, the provisions of this Act shall apply to such places; and, at or from such time, all such provisions of whatever nature, whether penal or otherwise, so far as they

they shall be capable of application to such places, shall be and are hereby declared to apply thereto, as if such places were expressly named herein.

5. Regulation of Buildings.

AND now generally, for the purpose of regulating the building and the rebuilding upon sites of former buildings, and the enlarging and altering of all Buildings, of what nature soever, within the limits aforesaid; BE IT ENACTED, with regard to every such building hereafter to be built (except the buildings comprised in Schedule (B.) hereto annexed, and except sewers made by or under the direction of any Commissioners of Sewers), so far as relates to building the same, and with regard to every such building, either already or hereafter built, (except the said buildings comprised in the said Schedule (B.), and except the said sewers), so far as relates to the rebuilding, and the enlarging or altering the same, and that whether such buildings be built or rebuilt on old or new foundations, or partly on old and partly on new foundations, THAT, notwithstanding any thing contained to the contrary in any Act of Parliament now in force, every such building shall be built, rebuilt, enlarged or altered in reference to the walls, whether external or party-walls, and to the number and height of the stories or rooms therein, and to the chimnies, and to the roofs, and to the timbers, and to the drains, and to the projections, and to any other parts or appendages of every such building, in the manner and of the materials, and in every other respect in conformity with the several particulars, rules and directions which are specified and set forth in the several Schedules (C.), (D.), (E.), (F.), (G.), (H.), (I.), (K.), to this Act annexed, according to the classes of buildings, and the rates of such classes to which such buildings are by the Schedule (C.) declared to belong; subject nevertheless to any other rules and directions in this Act contained in the same behalf; and subject in every case of doubt, difference or dissatisfaction in respect thereof, either between any parties concerned or between any party concerned and the Surveyor of the district, to the determination of the Official Referees, upon a reference of the matter in question, according to the provisions of this Act in that behalf.

Rates of Buildings, and thicknesses of walls and footings, and rules concerning Buildings.

6. Buildings under supervision of Official Referees.

AND BE IT ENACTED, with regard to all buildings of the first rate of the Second or Warehouse class, and to all buildings of the Third or Public-Building class (except the buildings hereinbefore excepted), so far as relates to the supervision thereof, THAT, subject to the provisions in the Schedule (C.) and elsewhere in this Act made in respect thereof, every such building shall be built under the special supervision of the Official Referees, according to the provisions of this Act in that behalf, as well as under the ordinary supervision of the Surveyor, and if any difference arise as to whether any such building be liable to such special supervision, the same shall be determined by the Official Referees; subject nevertheless to an appeal, at the

the instance of any party interested, to the Commissioners of Works and Buildings, whose decision in the matter shall be final.

7. Special supervision of exempted Buildings.

AND WHEREAS, by several Acts now in force, certain buildings and structures have been exempted from the operation of the Act mentioned in the Schedule (A.), hereto annexed, for the regulation of buildings and party-walls within the cities of London and Westminster, and the liberties thereof, and other the parishes and places therein mentioned; BE it Enacted, with regard to the buildings hereinbefore exempted and comprised in Schedule (B.), so far as relates to the supervision thereof, THAT, notwithstanding any thing contained to the contrary in any Act or Acts now in force, every such building or other structure mentioned in the said Schedule (B.), Part I., shall be subject to special supervision by the Official Referees, according to the provisions of this Act in that behalf; and every such building or other structure mentioned in the said Schedule (B.), Part II., shall be exempt from supervision.

8. Buildings not within Rates.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to any building of whatever kind, which is not hereby expressly assigned to any class or rate of a class, so far as relates to the application of this Act thereto, THAT if any party be desirous of erecting any building which does not come within any one of the said classes, or of any rate of such classes, THEN such building shall be built in accordance with such class and rate as shall be directed by the Surveyor, subject, as in other cases of doubt, difference or dissatisfaction, to an appeal to the Official Referees.

9. Modification of Building Contracts.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to any building of whatever class, so far as relates to the modification of any written contract or agreement now in force for erecting or altering such building, (other than a contract or agreement in the nature of a building lease), THAT it shall not be lawful to execute such contract otherwise than in conformity with the provisions of this Act; but it shall be lawful for either party, and he is hereby entitled to deviate from such contract, so far as any part thereof may remain to be executed after this Act shall have come into operation; and the alterations rendered necessary by this Act shall be performed as if this Act had been in force when such contract was entered into; AND THAT IF the parties thereto shall disagree about the difference of the costs and expenses of the works when performed according to the provisions of this Act, and the works as stipulated for in such contract, THEN, upon notice being given in writing by one party to the other, it shall be lawful for either party, and he is hereby entitled, to refer the matter to the Surveyor, who shall determine the same, subject to

Reference to the Surveyor, or on appeal to the Official Referees.

appeal as aforesaid to the Official Referees; and the award of such Official Referees shall be final and binding on all the parties, and in all respects as if such award had formed part of the contract; AND the costs of the reference shall be borne by all, or any, or either of the parties, in such manner and proportion as the Surveyor, or, in case of appeal, as the Official Referees, shall appoint.

10. Modification of Building Leases.

PROVIDED ALSO, AND BE IT ENACTED, with regard to any building of whatever class, so far as relates to the modification of any lease, or agreement for a lease, being of the nature of a building lease, whereby any person may be bound to erect buildings, THAT, notwithstanding anything herein contained, it shall be the duty of such person and he is hereby required to erect every building agreed to be built by such lease or agreement, according to the conditions rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement; AND THAT on the completion of such work, and on giving Fourteen Days' notice of his intention to apply to the Official Referees on this behalf, it shall be lawful for the lessee or tenant, and he is hereby entitled, to require the Official Referees to ascertain what loss, present and prospective, has been occasioned by the observance of the provisions of this Act, and to determine whether he is entitled to any and what compensation, whether by payment of money or reduction of rent, or both, or otherwise; AND THAT, on the receipt of such requisition, and on proof of due notice thereof having been given to the lessor or owner of the building, it shall be the duty of such Official Referees, and they are hereby required, to proceed to ascertain if any and what loss has been so occasioned, and to determine if any and what compensation, as aforesaid, be due in respect thereof, and their decision in the matter shall be final.

Application to Official Referees.

Proceedings thereon.

11. Commissioners of Works and Buildings empowered to modify Rules generally.

AND, FOR THE PURPOSE of preventing the express provisions of this Act from hindering the adoption of improvements, and of providing for the adoption of expedients either better or equally well adapted to accomplish the purposes thereof; BE IT ENACTED, with regard to every building, of whatever class, so far as relates to the modification of any rules hereby prescribed, THAT if, in the opinion of the Official Referees, the rules by this Act imposed shall be inapplicable, or will defeat the objects of this Act, and that by the adoption of any modification of such rules, such objects will be attained either better or as effectually, it shall be the duty of such Official Referees to report their opinion thereon, stating the grounds of such their opinion, to the Commissioners of Works and Buildings; AND THAT, IF on the investigation thereof it shall appear to the said Commissioners that such opinion is well founded, THEN it shall be lawful for the said Commissioners

Report of Official Referees.

sioners or any Two of them to direct that such modification may be made in such rules as will, in their opinion, give effect to the purposes of this Act; AND THAT ALTHOUGH such Official Referees shall be of opinion that such modifications are not requisite or admissible, yet if any party interested present to the Official Referees a representation, setting forth the grounds whereon such modification is claimed, it shall be the duty of the Official Referees, and they are hereby required to report such representation, as well as their opinion thereon, to the said Commissioners, with the grounds of such their report and opinion; AND THAT thereupon, if the said Commissioners think fit, it shall be lawful for them or any Two of them to direct the Official Referees to make such order in the matter as may appear to them to be requisite.

Extent of modification.

Representation by parties.

Order thereupon.

12.

Power to modify provisions of this Act as to existing Buildings, to be rebuilt.

AND BE IT ENACTED, with regard to buildings already built, so far as relates to the rebuilding thereof in conformity with this Act, in respect of the required area, or in any other respect than the required height and thickness of walls, THAT IF a full compliance with the provisions of this Act be attended by extreme loss and inconvenience, THEN, subject to the report of the Official Referees, and to the consent of the Commissioners of Works and Buildings, and to such terms as the said Commissioners may impose in that behalf, it shall be lawful for the parties concerned to rebuild such buildings on the site of the old buildings as near as may be practicable, BUT SO THAT, nevertheless, both the party-walls and the external walls be of the required height and thickness.

13.

BUILDERS.

Works to be executed. Notice to Surveyors.

AND BE IT ENACTED, with regard to the works to be executed in pursuance of this Act, so far as relates to the supervision thereof by the Surveyors, THAT Two Days before the following acts or events; that is to say,—

Before any building shall be begun to be built; and also,

Before any addition or alteration, which by this Act is placed under the supervision of the Surveyor, shall be made to any building; and also,

Before any party-wall, external-wall, chimney-stack or flues shall be begun to be built, pulled down, rebuilt, cut into, or altered; and also,

Before any opening shall be made in any party-wall; and also,

Before any other matter or thing shall be done which by this Act is placed under the supervision of the Surveyor;

It shall be the duty of the builder (by which term is to be understood, both in this provision and elsewhere throughout this Act, the master-builder or other person employed to execute any work, OR IF there be no master-builder or other person so employed, THEN the owner of the building, or other person for whom or by whose order such work is to be done), and he is hereby required to give to the Surveyor, at his

 office,

office, notice in the terms specified in the form (No. 1.) contained in the Schedule of Notices annexed to this Act, or to the like effect;

£. 20 penalty for neglect to give notice, &c.;

AND THAT IF any builder neglect to give such notice, or begin to build, or do any of the things aforesaid, before such notice, or before the expiration of such period of Two Days; THEN, in every such case, the party offending shall, for every such default, forfeit and pay to such Surveyor, Treble the amount of the fees which such Surveyor would have been entitled to receive for his trouble in inspecting the same, and shall also forfeit for every such default a sum not exceeding Twenty Pounds; AND THAT IF, for any period exceeding Three Months, any builder having duly begun any building, requiring compliance with the provisions of this Act, suspend the progress of such building, and again go on with the same; OR IF, during the progress thereof, the builder be changed; THEN, Two Days before such builder shall enter upon the performance of the work, it shall be the duty of such builder to give notice to the Surveyor; and such notices must be in the terms specified in the forms (Nos. 2 and 3.) contained in the Schedule of Notices annexed to this Act, or to the like effect; AND must be given to the Surveyor, or left at the Surveyor's office, in like manner as is required upon beginning any new building; AND THAT IF any builder make default or neglect to give or leave such notice, he shall forfeit for every such offence a sum not exceeding Twenty Pounds; AND THAT IF any such building, chimney or wall be begun to be built, pulled down, rebuilt, cut into or altered as aforesaid, or be proceeded with after any suspension of the progress thereof before such notice has been given; OR IF such Surveyor or the Official Referees be refused admittance to inspect the same premises, THEN such building or work shall be liable to be abated as a nuisance under the provisions herein contained.

£. 20 penalty for not giving fresh notices.

Penalty for beginning without notice;

or refusal to admit Surveyor.

BUILDINGS GENERALLY.

14. Supervision of Works. Notice of Irregularities to Builders and others.

AND BE IT ENACTED, with regard to such buildings and works, so far as relates to the supervision thereof, THAT IF in building, pulling down, rebuilding, cutting into or altering any part of any building, or party wall or external wall, or chimney-stack or flue, drains, cesspools, or any work or other thing be done contrary to or not conformably with the rules and directions of this Act; THEN forthwith it shall be the duty of the Surveyor and he is hereby required to give Forty-eight Hours' notice, according to the form (No. 4.) in the Schedule of Notices, or to the like effect to the builder, foreman or principal workman on the premises, to amend any such irregularity which he shall deem to have been committed; AND forthwith, after the expiration of such notice, to proceed to inspect the work; AND THAT, IF the work be so far advanced that he cannot ascertain whether the irregularity has been committed or not, or exists or not, THEN it shall be lawful for him and he is hereby empowered to order any work to be cut into, laid open or pulled down, which shall in his opinion prevent his ascertaining whether any

To cut into works.

any such irregularity exists or not; AND THAT IF, within Forty-eight Hours, the builder to whom any such notice shall have been given, refuse or fail to amend any irregular work, OR IF any such builder, when ordered by the Surveyor, refuse to cut into, lay open or pull down any work which shall in his opinion prevent his ascertaining whether such irregular work exists or not, THEN, as soon as conveniently shall be, it shall be the duty of the Surveyor to give information thereof to the Official Referees; AND THAT upon the receipt of such information, it shall be the duty of such Official Referees, and they are hereby required to proceed to hear the matter, AND IF any breach of the rules, regulations and directions of this Act be found to have been committed, OR IF there appear good reason to suppose any such breach has been committed and is concealed, THEN it shall be lawful for the Official Referees, and they are hereby authorized to direct by their award that such building, party wall, external wall, chimney-stack, flue or other thing, or such part thereof as they shall deem necessary, shall be amended, removed, cut into, laid open, or pulled down; AND THAT all the costs, charges and expenses of the said work, and of the said application to the Official Referees, shall be borne by such party or parties as the Official Referees shall determine.

Amendment of Works.

Proceeding thereon by Official Referees.

Costs.

15.

AND NOW, FOR THE PURPOSE of making provision for the supervision of buildings of the First Rate of the Second or Warehouse Class, and of all buildings of the Third or Public-Building Class, (except the buildings hereinbefore excepted); BE IT ENACTED with regard to every such building, so far as relates to the special supervision thereof, THAT when all the walls of any such building shall have been built to their full height, and all the timbers of the floors, roofs and partitions shall have been fixed, it shall be the duty of the architect or builder, and he is hereby required, to give notice thereof to the Official Referees, according to the form (No. 6.) in the Schedule of Notices, or to the like effect; AND IF the Official Referees be of opinion that such building is subject to the special supervision herein provided, THEN within Seven Days after such notice it shall be their duty to survey the said building; AND THAT, IF they approve of the same, THEN within Seven Days after such survey, to certify such approval under their hands to the architect or builder; OR THAT IF any part of the walls, timbers, roof or internal supports appear to such Official Referees defective, insufficient or insecure, THEN, within the said Seven Days after such survey, they are hereby required to give to such architect or builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; AND THAT, upon the receipt of such notice, it shall be the duty of the said architect or builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts; AND THAT, during or within a period of Seven Days after notice has been given

Special supervision of First Rate Buildings of Second Class, and of Buildings of Third Class.

Notice to Official Referees.

Survey.

Approval.

Disapproval.

Amendment of defects.

to the Official Referees that such works have been amended, or strengthened as aforesaid, it shall be the duty of the Official Referees, and they are hereby required to inspect the same, or in default thereof the said parts may be covered up; AND THAT, upon completion of every such building, it shall be the duty of the architect or builder to give fresh notice to the Official Referees, according to the form (No. 7.) in the Schedule of Notices, or to the like effect; AND THAT, thereupon, or within Seven Days after such notice, it shall be the duty of the Official Referees to survey the same; AND THAT, IF upon such survey it shall appear that such building has been built sufficiently strong, and is sufficiently set to be safe, THEN within Fourteen Days after such survey it shall be their duty and they are hereby required to certify, which certificate must be under their hands and the seal of office of Registrar of Metropolitan Buildings; AND THAT, until such certificate shall have been made, or until Fourteen Days after such survey shall have elapsed without the Official Referees having given notice in writing that they are not satisfied, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the Official Referees under their hands and the seal of office of the Registrar of Metropolitan Buildings; AND THAT, IF before the certificate of satisfaction shall have been made, or if such further Fourteen Days as aforesaid shall have elapsed without due notice being given in writing as aforesaid, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, THEN, on conviction thereof before Two Justices of the Peace, the owner or occupier of such building, or other the person by whom such building shall be so used, shall forfeit for such offence a sum not exceeding Two hundred Pounds, for every day during which such building shall be so used, without having obtained such certificate of satisfaction, or such express authority as aforesaid; AND THAT, in determining the amount of any such penalty, it shall be the duty of the Justices, and they are hereby directed to have regard to the size and character of the building and to the nature and extent of danger involved in the use of such building, and to the amount of profit which might be derived from such use thereof.

Notice of completion.

New survey.

Certificate.

Prohibition of use.

Penalty.

Justices to consider circumstances.

16. AND BE IT ENACTED, with regard to the Buildings comprised in Schedule (B.) to this Act annexed, so far as relates to the supervision thereof, THAT before the Builder begin to build the same, it shall be the duty of the Architect or the Builder and he is hereby required to give notice thereof to the Official Referees, and also, at the same time, to transmit for their inspection the plans, elevations and other drawings which have been made for the same; AND THAT forthwith thereupon it shall be the duty of the Official Referees and they are hereby required to proceed to survey the situation of the intended building, with a view to ascertain whether such building can be erected on such situation with due regard to the security of the public; AND THAT from time to time, during the progress of such building, it shall be

Special supervision of Buildings in Schedule (B.)

Survey by Official Referees.

Occasional inspection.

be the duty of such Official Referees and they are hereby directed to inspect the same with a view to ascertain the sufficiency thereof; AND THAT IF such building or any part thereof appear to such Official Referees defective, insufficient or insecure, THEN they are hereby required to give to such Architect or Builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; AND THAT, upon the receipt of such notice, it shall be the duty of the said Architect or Builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts; AND THAT during or within a period of Seven Days after notice has been given to the Official Referees that such works have been amended or strengthened as aforesaid, it shall be the duty of the Official Referees, and they are hereby required to inspect the same, or in default thereof, the said parts may be covered up; AND THAT, upon completion of every such Building, it shall be the duty of the Architect or Builder to give fresh notice to the Official Referees; AND THAT thereupon, or within Seven Days after such notice, it shall be the duty of the Official Referees to survey the same; AND THAT IF upon such survey it shall appear that such building has been built sufficiently strong, THEN it shall be their duty to certify accordingly, which certificate must be under their hands and the seal of office of Registrar of Metropolitan Buildings; AND THAT, until such certificate shall have been made, or until Fourteen Days after such survey shall have elapsed without the Official Referees having given notice in writing that they are not satisfied, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the Official Referees, under their hands and the seal of office of the Registrar of Metropolitan Buildings; AND THAT IF, before the certificate of satisfaction shall have been made, or if such Fourteen Days as aforesaid shall have elapsed without due notice in writing being given as aforesaid, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, THEN, on conviction thereof before Two Justices of the Peace, the owner or occupier of such building, or other the person by whom such building shall be so used, shall forfeit for such offence a sum not exceeding One hundred Pounds, for every day during which such building shall be so used without having obtained such certificate of satisfaction, or such express authority as aforesaid; AND THAT, in determining the amount of any such penalty, it shall be the duty of the Justices, and they are hereby directed to have regard to the nature and extent of danger involved in the use of such building, and to the amount of profit which might be derived from such use thereof.

Notice of deficiencies.

Amendment of defects.

Approval by Official Referees.

Notice of completion.

New survey.

Certificate.

Prohibition of use.

Penalty.

Justices to consider circumstances.

17. Entry on Premises.

AND BE IT ENACTED, with regard to buildings and works, so far as relates to the entry thereon for the supervision thereof, THAT, at all times during the progress of any operations in respect thereof within the meaning of this Act, it shall be lawful for the Surveyor, and for the Official Referees, and they are hereby respectively

BUILDINGS GENERALLY.

Refusal to permit inspection.

authorized to enter upon the premises upon which such operations have been commenced; AND THAT IF at any time whilst any building is in course of construction, demolition, alteration or re-construction, any person refuse to admit the Surveyor, or the Official Referees authorized under this Act, during the customary working hours, to inspect such building, or any person refuse or neglect to afford such Surveyor or Official Referee every assistance which may be reasonably required in and about such inspection, THEN in every such case, on conviction thereof, the party offending shall forfeit for every such offence a sum not exceeding Twenty Pounds; AND THAT IF at any time during such customary working hours the Surveyor or the Official Referees be refused admittance to make inspection of any work, THEN for that purpose it shall be lawful for such Surveyor or for such Official Referees, and they are hereby empowered, accompanied by a Peace Officer, to enter upon the ground, building and premises where the same shall be.

Forcible Entry.

18. All buildings not according to this Act declared a nuisance.

AND for the purpose of more effectually enforcing the observance of the provisions of this Act, BE IT ENACTED, with regard to any buildings, drains, timber buildings, chimneys and flues, party-walls, party-fence-walls, external walls and projections, and every other part of every building of every Class, or Rate of any Class, which shall be hereafter built, rebuilt, enlarged or altered within the limits of this Act, contrary to the provisions hereof, so far as relates to the removal thereof, THAT IF the same be not built, rebuilt, enlarged or altered in the manner and of the materials and in every other respect according to, and in conformity with, the several rules and directions which are in this Act particularly specified; AND IF any person build or begin to build, or cause the building or beginning to build, or alter or cause to be altered, or use or cause to be used any part of any ground or building, projection, drain or other thing contrary thereunto; AND IF, in either of such cases, it so appear by the certificate of the Official Referees; THEN the said building, projection, drain or other thing, or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered, or so used, shall be deemed a nuisance; AND THAT thereupon it shall be the duty of the Surveyor, and he is hereby directed to summon the builder before any Two Justices of the Peace; AND THAT IF, at the time and place appointed on such summons, such builder fail to appear, THEN it shall be lawful for the said Justices, and they are hereby authorized to issue a warrant under their hands and seals to compel such builder to appear before such Justices or any other Two Justices; AND THAT thereupon it shall be the duty of such builder, as such Justices shall require, and he is hereby required to enter into a recognizance in such sum, as the said Justices shall appoint, for abating and taking down the same within such convenient time as the said Justices shall respectively appoint, or otherwise for amending the same according to such rules and directions as are herein contained, and also for paying the costs, charges and expenses incurred by the

Summons before Justices.

Compulsory appearance.

Recognizances to pull down and amend.

Surveyor

Surveyor in laying the information and obtaining the conviction, including such compensation for the Surveyor's loss of time as the said Justices shall think fit; AND THAT IF the party so required fail to enter into such recognizance, THEN it shall be lawful for either of such Justices or any Justice, and they are hereby required to commit such builder to the common gaol of the city, county or liberty where the offence shall be committed, there to remain without bail or mainprize until he shall have entered into such recognizance as aforesaid, or until such irregular building shall have been abated or demolished or otherwise amended, or such nuisance shall be abated or demolished by order of such Justices respectively, (which order the said Justices are hereby empowered to make), and until the costs, charges and expenses thereof, and of all operations and proceedings in relation thereto, shall have been paid: AND FURTHER, THAT IF application be made to any Two or more Justices, THEN, thereupon, it shall be their duty, and they are hereby empowered to order the Surveyor or any other person to abate or demolish such nuisance, and to order the persons authorized by them so to abate or demolish the same, to sell and dispose of the materials thereof, and, out of the moneys arising by such sale, to pay to themselves, and all persons by them employed for such purpose, the reasonable charges for abating or demolishing such nuisance, and also such costs and expenses as aforesaid, and to pay the surplus moneys arising by such sale (if any) to such owner of the building as the Official Referees shall determine to be entitled thereto; AND THAT IF the moneys arising by such sale be not sufficient to pay such charges, THEN such owner, OR, IF there be no owner, THEN it shall be the duty of the occupier to make good the deficiency; AND IF he fail, THEN he shall be liable to the same remedies for the recovery thereof as are by this Act provided concerning the expense of taking down ruinous buildings, and putting up hoards for the safety of passengers.

Imprisonment.

Removal of buildings declared nuisances.

Expenses.

19. Fifty Shillings penalty on workmen offending.

AND BE IT ENACTED, with regard to any building or work, so far as relates to the non-observance of the provisions of this Act in that behalf by workmen and others, THAT IF any workman, labourer, servant or other person employed in any building, or in the alteration, fitting up or decoration of any building, wilfully and without the direction, privity or consent of the person causing such work to be done, do anything in or about such building contrary to the rules and directions of this Act, THEN upon conviction thereof before any Two Justices of the Peace, upon the oath of one or more credible witness or witnesses (which oath the said Justices are hereby empowered and required to administer), every such offender shall be liable to forfeit for every such offence a sum not exceeding Fifty Shillings; AND THAT IF upon or immediately after such conviction, any such forfeiture be not paid, THEN it shall be the duty of any Two Justices of the Peace to whom application shall be made, to commit the offenders by warrant under the hand and seal of such Justices to the common gaol for any term not exceeding One Month, at the discretion of such Justices.

Imprisonment.

20. Execution of works.

AND FORASMUCH as, from time to time, occasion hath arisen and will hereafter arise to execute the following works in relation to adjoining buildings and premises, parted by the same party-wall or party-fence wall, but belonging to different owners, or occupied by different persons, or to buildings intermixed, belonging to different owners, or occupied by different persons; namely,—

The reparation of the party-walls by which such premises shall be parted:

The pulling down and rebuilding of such party-walls:

The raising of such party-walls:

The reparation of party fence-walls:

The rebuilding of such party fence-walls:

The raising of such party fence-walls:

The pulling down of timber partitions which part buildings, the property of different owners, or occupied by different persons, and building in lieu thereof proper party-walls:

The pulling down of buildings built over public ways, or having rooms or stories, the property of different persons, or occupied by different persons, lying intermixed, for the purpose of building proper party walls or party-arches:

And generally the performance of other necessary works incident to the connection of such party-walls or party fence-walls with the premises adjoining: IT IS EXPEDIENT to make provision, as well for facilitating the execution of such works by any such owner desirous to execute the same (who is herein denominated the "building-owner"); as for protecting the interests of the owner of the adjoining premises (who is herein denominated the "adjoining owner"); NOW FOR THAT PURPOSE, BE IT ENACTED, with regard to all premises parted by a party-wall or party fence-wall, or parted by timber partitions, and with regard to all intermixed properties not so parted, so far as relates to the execution of any such works by any owner of any such premises, THAT IF the adjoining owner shall have consented thereto, OR IF, without such consent, the required notice of such work shall have been given by or on the part of the building-owner to such adjoining owner, THEN, subject to such modification as shall be made by virtue of the provision in that behalf; AND subject to the provision for supplying the want of consent of the owners; AND subject moreover to the respective conditions hereby prescribed, with regard to such works respectively, as well as to the payment of the costs of such works, and to the sanction or to the award of the Surveyors or of the Official Referees, as hereby prescribed in reference thereto, it shall be lawful for every such building-owner and he is hereby authorized or required to execute such works.

21. Consent of, or notice to, adjoining owner.

AND BE IT ENACTED, with regard to such works, so far as relates to the notice thereof, THAT unless the adjoining owner consent thereto, it shall not be lawful for the "building-owner" to execute such works, until he have given notice thereof to such "adjoining owner;" AND every such notice, with regard to the pulling down, rebuilding

rebuilding or repairing of party-walls or party fence-walls, must be given Three Months, at the least, before the work is to be commenced; AND every such notice, with regard to the pulling down and rebuilding intermixed walls and timber partitions, must be given Four Months, at the least, before such work is to be commenced; AND every such notice must be in the form or to the effect of the notice (No. 8.) for that purpose contained in the Schedule of Notices hereunto annexed.

22.
CLAUSE (A.) Modification of work to suit adjoining owner.

AND BE IT ENACTED, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises of the adjoining owner or his tenant, THAT IF the adjoining owner, at any time within Two Months after the receipt of the said notice from the building-owner, give notice of his desire that any modification be made in the work so as to render it suitable to his premises, according to the form (No. 18.) in the Schedule of Notices, or to the like effect, THEN, within Seven Days after the receipt of such notice, it shall be the duty of the building-owner, and he is hereby required, to signify his consent to, or dissent from, such modification or delay; AND THAT IF the building-owner dissent from or do not within such Seven Days signify his consent to such modification, THEN it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building owner not to commence the work until the Official Referees shall have determined thereon; AND THAT IF within Seven Days thereafter application be made in writing to the Official Referees, according to the form (No. 19.) in the Schedule of Notices, or to the like effect, and notice thereof be given to the building-owner, according to the other form (No. 20.), THEN, within Ten Days after such application, it shall be the duty of the Official Referees to signify their decision thereon, and it shall be the duty of the building-owner not to commence the work till the decision of such Official Referees shall have been given; AND THAT IF, within the period of Three Months from the date of the first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, THEN, subject to the provisions of this Act with regard to such works, it shall be lawful for the building-owner, and he is hereby authorized to proceed to execute the same.

Modification of operations.

Application to Official Referees.

Authority to build.

23.
Delay of work to suit adjoining owner.

AND BE IT ENACTED, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises or to the convenience of the adjoining owner or his tenant, THAT IF the adjoining owner at any time within Three Months after the receipt of the said notice from the building-owner, give notice of his desire that the work be delayed, so as to cause it to be executed at a more seasonable or a more convenient time in reference to the business, or to the family or domestic arrangements of such adjoining owner or his tenants, according to the form (No. 18.) in the Schedule of Notices, or to the like effect; THEN, within Seven Days after the receipt

of the notice thereof, it shall be the duty of the building-owner, and he is hereby required to signify his consent to, or dissent from, such modification or delay; AND THAT IF the building-owner do not within such Seven Days signify his consent to such modification or delay, THEN it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building-owner to delay the work until the Official Referees shall have determined thereon; AND THAT IF within Seven Days thereafter application be made in writing to the Official Referees, according to the form (No. 19.) in the Schedule of Notices, or to the like effect, and notice thereof be given to the building-owner, according to the other form (No. 20.), THEN within Ten Days after such application it shall be the duty of the Official Referees to signify their decision thereon, and it shall be the duty of the building-owner to delay the same till the decision of such Official Referees shall have been given; AND THAT IF, within the period of Three Months from the date of the first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, THEN, subject to the provisions of this Act with regard to such works, it shall be lawful for the building-owner and he is hereby authorized to proceed to execute the same.

Delay of operations.

Application to Official Referees.

Authority to build.

24. Supplying want of consent of adjoining owners.

AND BE IT ENACTED, with regard to any such works hereby authorized to be done in relation to party-walls, party-arches, party fence-walls, or other such structures, belonging to the owners of adjoining buildings or parting adjoining premises, so far as relates to supplying the want of consent of the adjoining owners, THAT IF the adjoining premises be unoccupied, OR IF the owner thereof cannot be found, OR IF the owner, although found, cannot, by reason of legal disability or otherwise, consent to the work, OR IF the owner will not consent thereto, OR IF differences arise amongst the parties concerned, THEN the notice required to be given in respect of such work must be served both on the Surveyor and on the Official Referees, in addition to such other parties entitled to notice under this Act upon whom such notice can be served, which must be according to the form (No. 9.) in the Schedule of Notices, or to the like effect; AND THAT forthwith, on the receipt of such notice, it shall be the duty of the Surveyor and he is hereby required to give notice to the parties by whom such work is to be executed, and to any one or more Surveyors or other agents by them appointed, as to the day and hour when he will view the premises, according to the form (No. 10.) in the Schedule of Notices, or to the like effect; AND at such time it shall be the duty of the Surveyor of the district and he is hereby authorized to proceed to inspect such premises accordingly, and to certify to the Official Referees,

Notice of Inspection by Surveyor.

First, Whether such work ought to be done or not; and

Secondly, If the same ought to be done, whether it ought to be done in the proposed manner; and

Thirdly, The site whereon the party-wall should be built; and with regard to intermixed buildings, what party-arches may be necessary

sary over or under any rooms of such buildings so intended to be rebuilt; and

Fourthly, The quantity of the soil or ground or other parts of the premises (if any) necessary to be laid to or taken from the house of the person desirous to rebuild, to the house of the person permitting him to erect a party-wall or party-arch; and

Fifthly, The compensation (if any) which should be made and paid by either the building-owner, or the adjoining owner, to the other in lieu of the lessening either of the said buildings by such party-wall or party-arch, or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby to any of the said parties;.

Notice to parties.

AND THAT, upon the receipt of such certificate, it shall be the duty of the Official Referees, and they are hereby required, to cause notice thereof to be given to the parties or to such of them as are known;

Confirmation by Official Referees.

AND THAT IF within Seven Days after such notice to the parties, the certificate be not appealed against, AND IF the Official Referees be of opinion that the work is proper to be done, and the compensation is fair, THEN it shall be lawful for the Official Referees to confirm such certificate, and to authorize the building-owner to proceed with the works, as if the consent of the adjoining owner had been obtained: AND THAT IF any party concerned shall appeal against the certificate of the Surveyor as to the work to be done, or as to the compensation, or as to any other matter referred to in such certificate, in pursuance of the above provisions, THEN it shall be the duty of the Official Referees, and they are hereby required to appoint one of their number to survey the building in question; AND THAT for that purpose it shall be the duty of the Official Referee so appointed, and he is hereby required to give notice to the parties, and to any one or more Surveyors or other agents by them appointed, as to the time when he will view the premises; AND THAT at such time it shall be the duty of such Referee, and he is hereby authorized to view such premises accordingly, and to inquire into the matters appealed against, and to certify to the Official Referees his opinion thereon; AND THAT, upon such certificate being made, it shall be lawful for the Official Referees to make their award, thereby either confirming, or reversing or modifying, as to them the case may seem to require, the certificate of the surveyor, and appointing by whom and in what proportions the expenses of the surveys and of the reports thereon are to be paid; and such award shall be final and conclusive; AND with regard to any works by such award authorized, so far as relates to the proceedings of the building-owner, THAT IF, upon the making of the award, the periods of the notices by this Act prescribed with regard to works of that nature have elapsed, THEN immediately upon the making of the award, BUT IF such periods have not elapsed, THEN as soon after the making of the award as such periods shall have elapsed, it shall be lawful for the building-owner, his agents, servants and workmen, to proceed to execute the works.

Proceedings on appeal against certificate.

Notice by Official Referees.

Survey.

Award.

Works authorized.

25. Reparation and rebuilding at joint expense.

AND BE IT ENACTED, with regard to any party-wall, party-arch or external wall used wholly or in part as a party fence-wall, so far

far as relates to the reparation and rebuilding thereof, at the joint expense of the owners of the buildings parted thereby, THAT IF such party structure be so defective or so far out of repair as to render it necessary to pull down and rebuild the same, or any part thereof, THEN, on notice being given by the owner of one of the buildings to the adjoining owner, according to the form (No. 8.) in the Schedule of Notices, or to the like effect, it shall be lawful for the building-owner to require a survey, certificate and award authorizing the execution of such reparation or rebuilding, according to the provisions hereinbefore contained in that behalf.

26. Rebuilding of party-walls.

AND BE IT ENACTED, with regard to sound party-walls, so far as relates to the rebuilding thereof, at the expense of the building-owner, THAT IF the owner of one of the buildings desire to rebuild such party-wall, THEN, on giving to the adjoining owner the required notice of Three Months, according to the form (No. 14.), in the Schedule of notices, or to the like effect, it shall be lawful for such building-owner, and he is hereby entitled to pull down and rebuild such party-wall; BUT UPON condition that he do reinstate and make good all the internal finishing and decorations of the adjoining premises, and pay all the costs and charges thereof, and also all the expenses incidental to the execution of the work, including therein the fees and expenses of the survey, and the fees of the Surveyors and any fees in respect of any services performed by the Official Referees.

27. Rebuilding a party-wall.

AND BE IT ENACTED, with regard to any party-wall so far as the rebuilding thereof; THAT IF the owner of one of the buildings parted by such party-wall rebuild such building of a higher rate, and do not pull down such party-wall and build a proper wall in lieu thereof, THEN it shall be his duty, and he is hereby required, to build up an external wall against such party-wall.

Building of an external wall against a party-wall.

28. Damage arising from erection of external wall against a party-wall.

AND BE IT ENACTED, with regard to an external wall built against a party-wall, so far as relates to the operations incident thereto, and to the making good any damage occasioned thereby, THAT IF it be necessary to excavate or dig out the ground against the wall of any adjoining building, for the purpose of erecting a wall thereon, or for any other purpose, THEN it shall be lawful for the building-owner and he is hereby entitled so to do; BUT upon condition, that the said building-owner do, at his own costs, shore up and underpin such wall, or such part thereof, to its full thickness, and to the full depth of such excavation, with good sound stock-bricks and tiles or slates bedded in cement, or with other proper and sufficient materials; such underpinning to be done in a workmanlike and substantial manner; AND THAT IF, for the purpose of erecting such external wall, it be necessary to cut away part of the footings of such party-wall on the side next to the wall so to be built, and any part of the chimney breasts and chimney-shafts belonging to the building about to be rebuilt, as shall project beyond the perpendicular face of such party-wall, in

Cutting into footings and chimneys.

the

the lowest floor thereof, THEN, on giving notice of such intention in writing to the owner of the adjoining building, at least One Month before commencing operations, according to the form (No. 15.) in the Schedule of Notices, or to the like effect; AND on the expiration of such notice, it shall be lawful for the building-owner and he is hereby authorized to cut away such portion of the footings, breasts and chimney-shafts aforesaid; BUT so that the same be done, and the brick-work where cut be again made good in cement, under the superintendence and to the satisfaction of the Surveyor.

29. Making good such damage.

PROVIDED always, AND BE IT ENACTED, with regard to such party-wall, so far as relates to the making good of any such damage, THAT IF it be so damaged and injured by such cutting away, as in the opinion of the adjoining owner or occupier to be ruinous or dangerous, THEN, upon application for that purpose, it shall be the duty of the Surveyor, and he is hereby required to survey such wall; AND IF upon the survey thereof it be found ruinous or dangerous, THEN to condemn it; AND THAT, thereupon, it shall be the duty of the building-owner to pull down and rebuild such party-wall; AND THAT IF, in the opinion of the Surveyor or of the Official Referees, such damage or injury shall have been occasioned by want of due care on the part of the building-owner, THEN it shall be the duty of such building-owner and he is hereby required to pull down and rebuild such party-wall; and that at his own costs and charges, including therein all the costs and expenses incident to such survey, and the pulling down and rebuilding of such party-wall, and the reinstating and making good all the internal finishings and decorations damaged thereby; AND THAT IF the owner of the building to be rebuilt do not proceed with all due despatch to pull down and rebuild such party-wall, and to reinstate and make good all the internal finishings and decorations of the adjoining premises, and to pay the costs and charges and expenses of the survey, THEN it shall be lawful for the adjoining owner so to do, and he is hereby entitled to recover all the costs and expenses in respect thereof from such owner, his heirs, executors, administrators or assigns.

Survey.

Damage from carelessness.

Rebuilding.

30. Rebuilding of sound party-walls.

AND BE IT ENACTED, with regard to any sound party-wall against which an external wall shall have been built, and which shall have been suffered to remain so far as relates to the re-building thereof, THAT IF, while such party-wall continues sound, the adjoining building be pulled down or rebuilt, and such party-wall be pulled down, THEN the owner of such adjoining building shall not be entitled to more than his just proportion of the materials thereof, nor to more than his just proportion of the ground on which such party-wall was built, nor shall he build on more than his just proportion of the said ground, unless he shall have agreed with and satisfied the owner of the building so previously rebuilt for his half thereof; AND THAT IF the said owners cannot agree concerning the division of such materials, or of such ground, or of

the building thereon, or concerning the reimbursement of the party first rebuilding as aforesaid, THEN the price and all matters in difference, including the sale and purchase of the ground in question, shall be settled by a reference to the Official Referees, whose award shall be final.

Reference to Official Referees.

31. Raising of Future Buildings.

AND BE IT ENACTED, with regard to every building hereafter built, so far as relates to the raising thereof, THAT it shall be lawful to raise any building, BUT SO THAT, nevertheless, the party and external walls and chimneys thereof, when so raised, be of the materials and of the several heights and thicknesses hereinbefore described for party and external walls and chimneys of the rate such building shall be of when so raised; AND with regard to buildings already built, so far as relates to the raising thereof, THAT, although the walls of such buildings be not of the thicknesses prescribed by this Act, if, in the opinion of the Surveyor, such walls be sufficiently secure to allow of the raising thereof, THEN it shall be lawful to raise any such building already built to an additional height, not exceeding Ten Feet; AND with regard to any building adjoining one which shall be raised, so far as relates to the raising of the chimneys thereof, THAT IF any building be raised, it shall be the duty of the owner of such building, and he is hereby required to build up, at his own expense, the party-walls between his own and any adjoining building, and all flues and chimney-stacks belonging thereto; AND with regard to any building raised, so far as relates to the use thereof by the adjoining owner, THAT IF at any time the owner of any such adjoining building make use of any portion of the part raised of such party-wall by building against it, or otherwise, it shall be lawful for the owner of the premises so first raised, to claim, and he is hereby entitled to recover the cost of a proportionate part of the portion which shall be so used, together with the cost of such parts of the chimney-stacks as belong thereto.

Existing Buildings.

Chimnies of adjoining Buildings.

Use of raised Buildings.

32. Repairing and rebuilding of party fence-walls.

AND BE IT ENACTED, with regard to party fence-walls, by which term is to be understood any boundary wall parting the grounds belonging to different owners, or occupied by different persons, so far as relates to the reparation and rebuilding and raising thereof, THAT if the owner of any of the premises parted thereby give One Month's notice of his intention to the adjoining owner to repair, pull down and rebuild the same, it shall be lawful for him so to do; AND IF the wall be below the height of Nine Feet from the ground on either side, THEN either to raise it to that height, or to pull it down and to rebuild it to that height; BUT upon condition that he do pay all the expenses thereof; AND THAT IF a building be to be erected against such party fence-wall, and such wall be not conformable to the requisites prescribed for a proper party-wall for a building of that Class and Rate, THEN it shall be lawful for the building-owner, and he is hereby entitled to pull down such party fence-wall; BUT upon condition that he do pay all the expenses thereof; and also that he do make good every damage which shall accrue to such adjoining premises by such rebuilding: PROVIDED ALWAYS,

Deficient party fence-wall.

ALWAYS, with regard to the expense of so pulling down such party fence-wall, and rebuilding the same, THAT IF thereafter the adjoining owner use such party fence-wall for any purpose to which, if it had not been pulled down and rebuilt, it would not have been applicable, THEN to such extent as such adjoining owner shall so use such wall, the building owner shall be entitled to be reimbursed the expenses of so pulling down and rebuilding such wall: PROVIDED ALSO, with regard to any such party fence-wall, so far as relates to the limitation of the height thereof, THAT IF any party desire to raise such wall so as to screen from view any offensive object or neighbourhood, THEN on application to the Official Referees, it shall be lawful for them to authorize such work, but not so as to obstruct the free circulation of the air, or to injure the property adjoining to or in the neighbourhood of such wall.

Reimbursement of expense of operations.

Limitation o height of screen walls.

33. Pulling down party timber partitions.

AND BE IT ENACTED, with regard to the party timber partitions of existing buildings belonging to different owners, so far as relates to the pulling down thereof, and any wall under or over the same, THAT IF one of the buildings be rebuilt, OR IF one of the fronts of any such building be taken down to the height of one story, or for a space equal to one-fourth of such front from the level of the second floor upwards, THEN, without the consent of the adjoining owner, but upon giving the requisite notice, according to the forms (Nos. 11, 12, 13), in the Schedule of Notices, or to the like effect, it shall be the duty of the building-owner, and he is hereby required, to pull down such timber partitions, and the walls under or over the same, and in lieu thereof to build a proper party wall; AND that at the expense of the owners of all the premises parted thereby.

34. Pulling down intermixed Buildings.

AND BE IT ENACTED, with regard to buildings built over public ways, or having rooms or stories, the property of different persons, lying intermixed (except Inns of Court hereinafter provided for), so far as relates to the pulling down and laying the parts thereof to each other, THAT IF a party-wall or party-arch cannot be built without pulling down such buildings, and so laying parts thereof to each other, AND IF, in default of the consent of all proper parties, the Official Referees authorize such works, THEN it shall be lawful for the owner of either of the said buildings to execute the same; BUT SO THAT the party-walls or party-arches be conformable to the provisions of this Act, and the directions of the said Official Referees in their award made in that behalf.

35. Inns of Court, &c.

AND BE IT ENACTED, with regard to the rooms or chambers in the Inns of Court, (that is to say) in Serjeants' Inn, Chancery-lane, or in any of the four Inns of Court, or in any of the Inns of Chancery, or any other Inns set apart for the study or practice of the law, and with regard to other buildings divided into rooms or chambers, offices or counting-houses, let out or to be let in separate suites or sets, so far as relates to the building of party-walls, THAT the walls or

divisions between the several rooms and chambers in such Inns, or such buildings, belonging to and communicating with each separate and distinct staircase, shall be deemed to be party-walls within the meaning of this Act and as such must be built in conformity with the regulations and clauses herein contained relating to party-walls.

36. Power of entry on premises to effect works.

AND for the purpose of facilitating and regulating the execution of any works authorized by this Act, or by any award, in pursuance thereof, in respect of any party-wall or party-arch, parting the buildings or grounds belonging to different owners, or in the occupation of different persons, or in respect of intermixed buildings; BE IT ENACTED, with regard to any such works, so far as relates to the power to enter the adjoining premises in order to execute the same, THAT IF such work have been duly authorized, either by the consent of the parties competent to give such consent, or by the award or certificate of the Official Referees, THEN, at any time between the hours of Six in the morning and Seven in the afternoon (Sundays excepted), it shall be lawful for the building-owner, or any other person acting in his behalf, accompanied by a constable or other officer of the peace, and they are hereby respectively empowered, to enter on the premises of the adjoining owner, so far as may be necessary for executing such work; AND THAT IF the outer-door of such building be shut, and being thereunto required, the person therein refuse to open the same, OR IF such building be empty and unoccupied, THEN it shall be lawful to break open such outer-door; AND IF any fixtures, goods, furniture or other thing obstruct the building of such intended party-wall or party-arch, or the pulling down any wall, partition or other thing necessary to be pulled down and removed in order to the building such intended party-wall or party-arch, THEN to remove such fixtures, goods, furniture and things to some other part of the same premises, OR IF there be no room on the premises sufficient for that purpose, to remove them to some other place of safe custody; AND THAT from and after such entry, and at all usual times of working, it shall be lawful for the builder employed to erect such intended party-wall or party-arch, and for his servants and all others employed by him, to enter into and upon the premises, and abide therein the usual times of working, as well for the shoring up of the said building so broken into and entered upon, and for taking down and removing any party-wall, partition, wainscot or other thing necessary to be taken down and removed for the purpose aforesaid, as to build such intended party-wall or party-arch; AND THAT IF in any manner any such owner or other person hinder or obstruct any workman employed for any of the purposes aforesaid, or wilfully damage or injure the said works, THEN every such person so offending shall forfeit for every such offence a sum not exceeding Ten Pounds.

Opening doors and removal of goods, &c.

Continuance of entry.

Penalty for hindrance.

37. Stopping of openings in external walls abutting on other premises.

AND NOW, FOR THE PURPOSE of further protecting the interests of adjoining owners, BE IT ENACTED, with regard to external walls adjoining the ground or building of another owner, so far as relates to the making of openings therein, THAT IF, without the consent

consent in writing of the owner of such ground or building, any opening be made in any such wall, THEN it shall be lawful for such owner, and he is hereby entitled, to require the owner of the premises in which such opening shall be made to stop up the same with brick or stone-work, as the case may be, according to the form (No. 5.) in the Schedule of Notices, or to the like effect; AND THAT IF, within One Month after such notice, such stoppage be not effected, THEN it shall be lawful for such owner, and he is hereby entitled, either by himself or his workmen, with tools, implements and materials, to cause such openings so to be stopped, and he is also hereby entitled to be repaid the costs thereof; AND with regard to such Costs, so far as relates to the adjustment thereof, THAT IF such owner refuse to make payment thereof, OR IF there be any dispute as to the amount thereof, THEN, on application for the purpose to the Official Referees, by either of the parties concerned, it shall be lawful for the person by whom they have been incurred, and he is hereby entitled, to refer the matter of such dispute to the Official Referees, and to have their determination thereon; AND THAT it shall be the duty of such Official Referees to give to the applicant a certificate in relation thereto; AND THAT IF any party liable to pay any sum of money under such certificate fail to do so, THEN it shall be lawful for the party entitled to such costs to recover the same, in the manner hereinafter provided for the recovery of the costs, charges and expenses of executing any works in pursuance of this Act.

Stoppage thereof.

Costs of stopping up.

Certificate of Official Referees.

Recovery of costs.

38. AND BE IT ENACTED, with regard to walls, so far as relates to the building thereof on vacant ground at the line of junction of premises belonging to different owners or in different occupations, THAT One Month before the owner of any piece of vacant ground, or ground not hitherto built upon, shall build any building adjoining to another piece of vacant ground, or ground not hitherto built upon, or build a fence-wall for such piece of ground, IT shall be his duty, and he is hereby required to give to the owner or occupier of such adjoining vacant ground, a notice, which must be in writing, and must set forth his desire to build a party-wall or party fence-wall, and describe the thicknesses and dimensions of such desired party-wall or party fence-wall, according to the form (No. 16.) in the Schedule of Notices, or to the like effect; AND THAT IF, within such period of One Month, such adjoining owner shall signify his consent in writing, THEN the same must be built partly on the ground of one of the said owners or occupiers, and partly on the ground of the other owner, and such last-mentioned part is to be paid for as is hereinafter directed by such other owner or occupier; BUT if he do not signify such consent, THEN it shall be the duty of the building-owner to build an external wall for such building, and fence-wall for such ground entirely upon his own ground, except as to the footings of any such wall.

38. Building of party-walls next vacant ground.

Consent of adjoining owner.

PARTY WALLS. PARTY FENCES. INTERMIXED BUILDINGS.

39. Building of chimney-breasts, &c., in new party-wall for adjoining-owner.

AND BE IT ENACTED, with regard to any new party-wall, built on the line of junction of premises belonging to different owners, so far as relates to the providing of chimney-breasts and other accommodation for the adjoining owner, THAT when the owner of any piece of vacant ground shall have obtained the consent of the adjoining owner to build a party-wall on the line of junction of their respective premises, THEN, Ten Days at the least before beginning to build such party-wall, it shall be the duty of the building-owner to give the adjoining owner notice thereof, according to the form (No. 8.) in the Schedule of Notices, or to the like effect; AND THAT IF in due time the adjoining owner shall give instructions in writing, or by a plan and elevations or other sufficient drawings, THEN it shall be the duty of the building-owner to construct, if practicable, such and so many chimney-jambs, breasts and flues of chimneys, in all such parts of such party-wall as shall be by such instructions required, and to leave such recesses in every such wall as may be so required; BUT SO THAT they be conformable with the directions of this Act concerning party-walls and chimneys; AND THAT thereupon it shall be lawful for the building-owner to claim, and he is hereby entitled to recover from the adjoining owner all the expenses of constructing such chimney-jambs, breasts and flues of chimneys and recesses, as provided by this Act in that behalf.

Instructions by adjoining owner.

Reimbursement of expenses.

RUINOUS BUILDINGS.

40. Repairing and rebuilding.

AND WHEREAS buildings within the limits of this Act are often, either from litigated titles thereto, or from the obstinacy, neglect or poverty of the owners thereof, or of the parties interested therein, or from other causes, in so ruinous a condition that passengers are endangered thereby; NOW for the purpose of making provision in that behalf; BE IT ENACTED, with regard to ruinous buildings, or parts of buildings, so far as relates to repairing or pulling down the same, THAT, upon receiving information of any building being in a ruinous and dangerous condition, it shall be the duty of the Surveyor, and of the overseers for the time being of the parish or place in which the same shall be, and they are hereby respectively required, to apply forthwith to the Official Referees to authorize a survey to be made thereof; AND THAT, thereupon, it shall be lawful for the Official Referees to direct the Surveyor to make such survey; AND THAT, thereupon, it shall be the duty of such Surveyor to act in all respects as in the case of a survey of party-walls; AND THAT, upon the receipt of the certificate of the Surveyor, it shall be lawful for the Official Referees, and they are hereby required to cause a copy thereof to be transmitted, IF the premises be within the city of London, THEN to the Court of Lord Mayor and Aldermen, and IF they be elsewhere, THEN to the Overseers of the poor of the parish or place in which such premises shall be; AND THAT, thereupon, it shall be the duty of such Mayor and Court of Aldermen and Overseers to cause, with all convenient speed, any such ruinous building to be securely shored, or a proper and sufficient hoard to be put up for the safety of all passengers;

Application to Official Referees.

Survey.

Notice to Lord Mayor, &c., and to Overseers.

Shoring and Erection of hoards, and Notice to parties.

passengers; AND to cause notice in writing to be given to the owner of such building to repair or pull down the same or any part thereof as the case may require, within Fourteen Days then next ensuing; AND THAT IF within the said Fourteen Days the repair or demolition thereof be not begun and be not completed as soon as the nature of the case will admit, THEN on a declaration being made before the said Lord Mayor or a Justice of the Peace, of such notice having been so given, (which declaration the said Lord Mayor and Justice are hereby respectively empowered and required to receive), it shall be lawful for the said Lord Mayor and Court of Aldermen, and they are hereby authorized and required, out of the cash in the Chamber of London, and also for every such Overseer of the poor by and out of the money in his hands, and they are hereby severally authorized and required, with all convenient speed, to order and cause such building or such part thereof so certified to be in a ruinous and dangerous condition, as shall be necessary for the safety of the passengers, to be repaired or pulled down, or secured in such manner as shall from time to time be requisite: PROVIDED always, That if such Lord Mayor and Aldermen, or such Overseers, appeal against such certificate, it shall be the duty of the Official Referees to proceed to survey, to certify and to award in all respects as in the case of an appeal from the certificate of the Surveyor with reference to party-walls or intermixed buildings; AND THAT if such Official Referees certify that the said premises are ruinous and dangerous, it shall be the duty of the said Lord Mayor or the said Overseers to repair or pull down such building as aforesaid.

Repairs.

Appeal against survey.

Demolition.

41.

AND BE IT ENACTED, with regard to any such ruinous buildings so pulled down, so far as relates to the disposal of the materials thereof and to the application of the proceeds, THAT it shall be lawful for the said Lord Mayor and Court of Aldermen, or the said Overseers, to sell and dispose of such of the materials as they shall judge necessary, and out of the moneys arising from the sale thereof to reimburse to themselves, the Surveyors and Official Referees, and every person by them respectively employed for the purposes aforesaid, all the charges of the survey and appeal, and of putting up every such hoard, and of repairing, pulling down and securing such premises, and of making good the pavement, and of selling the said materials as aforesaid, or so much thereof as the moneys arising by such sale will extend to; AND THAT IF there be any surplus after payment of all expenses, THEN, upon demand thereof made by such owner, it shall be the duty of the said Lord Mayor, or of the said Overseers, to account for and pay such surplus of the moneys arising by such sale to the owner of such building: OR IF there be any question as to the person entitled to such surplus, or as to the priority of title to such sum of such persons so entitled, or as to the proportions to which such persons are so entitled, THEN it shall be lawful either for the Lord

Disposal of materials to pay costs.

Payment of surplus on demand.

Mayor or the Overseers, or for any person claiming to be so entitled, to refer the matter to the determination of the Official Referees, and their decision shall be final; AND THAT IF no such demand be made, THEN such surplus shall, as regards places within the city of London, and the liberties thereof, be paid to the Chamberlain of the city; and as regards all other places, such surplus shall be paid to the Overseers and added to the moneys raised as rates for the relief of the poor of the parish or place, and accounted for accordingly: PROVIDED NEVERTHELESS, That, at any time within Six Years from the deposit of such surplus, it shall be lawful for any such owner, his executors or administrators, to claim and he and they are hereby entitled to recover such surplus; AND the said Lord Mayor and Aldermen of the city of London, as regards the said city and liberties thereof, are hereby required to pay such surplus out of the cash in the Chamber of London; and every overseer, as regards places not within the said city or the liberties thereof, is hereby required to pay such surplus out of any moneys raised or to be raised by any rate for the relief of the poor.

If no demand.

City of London or Overseers to refund within Six Years.

42. AND BE IT ENACTED, with regard to such ruinous buildings, so far as relates to the expenses of any such survey and appeal, putting up such hoard, repairing, pulling down and securing such buildings, and selling the materials beyond the amount thereof, which shall have been satisfied by the application thereto of the proceeds of the materials, THAT IF the moneys arising from such sale be insufficient to repay all such expenses, THEN, from time to time, such deficiency shall be paid by the owner of every such building, if known; AND THAT IF, on demand thereof, such owner fail to pay such deficiency, THEN it shall be lawful for the Lord Mayor for the time being, if such ruinous building in question be within the city of London or the liberties thereof, or if elsewhere, for two or more Justices of the Peace, to levy the amount thereof by warrant under their hands and seals, by distress and sale of the goods and chattels of such owner, if any such can be found; AND THAT if no such owner can be met with, or being met with, shall not, on demand, pay the said deficiency, and no sufficient distress of the goods and chattels of such owner can be found, THEN it shall be lawful for the person who shall at any time thereafter occupy any such building, or the ground where the same stood, and he is hereby authorized and required to pay and deduct the same out of the rent thereof; AND THAT IF he neglect or refuse to pay such deficiency, THEN it shall be lawful for the said Lord Mayor, or two or more such Justices of the Peace, and they are hereby empowered and required to cause the same to be levied by distress and sale of the goods and chattels of any occupier of the premises, together with the costs of every such distress and sale; AND THAT IF the premises be situate wthin the city of London and its liberties, it shall be the duty of the person by whom the same shall be

If a deficiency, to be paid by owner;

Or levied by warrant of distress;

Or occupier to pay and deduct from rent;

Or by distress on occupier.

Payment of money to Chamberlain or to the Overseers.

be received, and he is hereby required to pay the amount to the Chamberlain, to be by him from time to time placed to the credit of the cash of the said city of London; AND if the premises, in respect of which such money shall be received or recovered, be not situate within the said city of London and the liberties thereof, THEN to pay the amount received to the Overseers of the poor for the time being of the parish or place where the premises shall be situate, to be by them placed to the account of the said parish, in aid of the poor rate of the parish or place.

43. Repair of ruinous Chimneys, &c.

AND BE IT ENACTED, with regard to ruinous chimneys, roofs and projections, so far as relates to the repairing thereof, THAT IF a chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof, or any projection from the front walls of any building, be in danger of falling; THEN it shall be the duty of such Surveyor and he is hereby required to require the occupier of such building, OR IF there be no occupier, THEN the owner thereof, to take down or secure the same within Thirty-six Hours after notice thereof shall have been given; AND THAT IF, within the time specified, such occupier, or some other person interested in such building, do not begin to take down or secure the same, and, as soon as the nature of the case will admit, complete such taking down or securing of the same, THEN it shall be the duty of such Surveyor to give information thereof to a Justice of the Peace; AND, thereupon, it shall be the duty of such Justice of the Peace to proceed to cause such chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof or projection from the front or side wall of such building as shall be considered by such Surveyor in danger of falling, to be forthwith taken down or secured; AND THAT if there be no occupier or known owner, THEN it shall be lawful for such Justice to direct that the reasonable expenses, to be certified by the Official Referees, be paid by the Overseers of the parish or place in which such building shall be situated; AND THAT IF thereafter the owner of such building become known, OR IF the building become occupied, THEN it shall be lawful for the Overseers of the poor, and they are hereby entitled to recover the amount of such expenses from such owner or from such occupier, as in the case of ruinous buildings hereinbefore provided for; AND THAT IF within the time limited the occupier or some other person interested in such building do not take down or secure the same, THEN for every day during which the same shall so remain unrepaired or not sufficiently secured, such occupier or the owner, if there be no occupier, shall forfeit and pay a sum not exceeding Five Pounds; AND THAT such occupier or owner shall also pay the Surveyor's fees and all other costs, charges and expenses attendant upon any such taking down or securing the building; AND all such Surveyor's fees, and other costs, charges and

Notice.

Repairs.

Certification of expenses.

Recovery from owner or occupier.

Penalty.

Fees and expenses.

RUINOUS BUILDINGS.

Reimbursement of occupier.

expenses may be recovered and levied in the same manner as such penalty: PROVIDED always, THAT IF the occupier of such building be not bound by virtue of any lease or other instrument to repair, reinstate or secure the premises, THEN such occupier is hereby entitled to retain out of the rent payable in respect of such premises, all such penalties, costs, charges and expenses attendant upon or arising out of the taking down or securing, or the repairing or rebuilding the same, as in the case of any other works, the costs of which he is hereby required to pay in the first instance.

44. Injury by the fall of chimneys, &c.

AND BE IT ENACTED, with regard to adjoining buildings, so far as relates to the making good any damage arising from the falling down of parts thereof, (except any such part of a party-wall as shall belong to and be used conjointly by the owners or occupiers of the buildings parted thereby), THAT IF at any time any injury or damage be caused to any part of an adjoining building, or to the internal decorations and furniture in such building, by the falling down from any other building of any chimney-shaft, chimney-pot, parapet, coping or other thing, THEN it shall be the duty of the owner of the building from which such part shall fall, and he is hereby bound and required to reimburse the expense to which the owner or occupier may be put in making good such injury or damage, in like manner as herein directed concerning the reimbursement of the expenses of ruinous party-walls; and such costs shall be recoverable in the manner hereinafter directed for the recovery of the costs and expenses of executing works in pursuance of this Act.

Compensation.

45. Court of Mayor and Aldermen.

AND BE IT ENACTED, THAT all the powers and authorities by this Act vested in the Mayor and Aldermen of the city of London, may be lawfully exercised by the Court of Mayor and Aldermen of the said city, to be holden in the outer chamber of the Guildhall of the said city, according to the custom of the said city.

EXPENSES OF WORKS.

46. Repayment of expenses of works in certain cases.

AND, FOR THE PURPOSE of reimbursing any building-owner for the expense of works incurred in respect of any party-structure; BE IT ENACTED, with regard to the following works, so far as relates to the reimbursement, by the adjoining owner, of expenses incurred by the building-owner, in respect of any party-structure, built to part the buildings or premises belonging to other owners from the buildings or premises belonging to himself; that is to say,—

First, With regard to any party-wall hereafter built on the line of junction of any two buildings; and,

Second, With regard to any party-wall hereafter built on the line of junction of any building and any vacant ground, or of vacant premises, belonging to different owners or occupiers; and,

Third, With regard to a ruinous and defective party-wall pulled down and rebuilt, either with the consent of the adjoining owner, or in pursuance of the condemnation thereof, according to this Act, except a party-wall condemned on account of the injury done thereto by any building-owner, and the expenses of which

which and of other incidental works the Official Referees shall have awarded to be paid by such building-owner, by virtue of the provision in that behalf; and,

Fourth, With regard to one or more timber partitions betwen any two or more buildings pulled down, and a party-wall built in lieu thereof; and,

Fifth, With regard to a new party-wall or party-arch built in lieu of any party-wall or party-arch between intermixed properties pulled down, either with the consent of the adjoining owner, or in pursuance of the condemnation of such party-wall or party-arch; and,

Sixth, With regard to any party-wall built on the site of a party fence or party fence-wall, and used otherwise than as a party fence wall by the person who shall not have built the same; and,

Seventh, With regard to every other case of reimbursement, in respect of any party-structure;

Recovery of expense from adjoining owners.

THAT IF the party structure, be built in the manner, and of the materials, and of the thicknesses of such structure as required by this Act in reference thereto, THEN it shall be lawful for the building-owner at whose expense such work shall have been executed, to claim and he is hereby entitled to be paid and to recover from the adjoining owner who is in the immediate occupation of the adjoining building or ground, or in the immediate receipt of the profits thereof, the following compensations; that is to say,—

IF a new party-wall or party-arch built on the line of junction by one owner, be made use of, either wholly or partially, by the adjoining owner, THEN a sum of money proportionate to the value of so much of such party structure so made use of; and

IF chimney-jambs, chimney-breasts and flues have been set up in any party-wall in pursuance of the instructions of the owner of any vacant ground adjoining to the same, THEN a sum equal to the value thereof; and

IF an unsound party-wall or other party structure be pulled down and rebuilt, THEN a sum of money equal to a proper proportion of the value of the new party structure, deduction being made for a due proportion of the old materials, and also a proportionate part of all expenses which shall be necessary for pulling down the old party structure, in lieu of which such new party structure shall be built; and

IF a party-wall be built in lieu of a timber partition or other party structure, and be made use of by the adjoining owner, THEN a sum of money proportionate to the value of so much of such new party-wall as shall be so made use of; and also a proportionate part of all expenses which shall be necessary for pulling down the old timber partition or other party structure; and

IF a party-wall or party-arch already built, or hereafter rebuilt, be used by an adjoining owner, THEN a sum of money proportionate to the value of so much of such party structure, as the adjoining owner shall use, deduction being made, where proper, for the value of old materials;

And, in every case, the whole of the reasonable expenses of the shoring up the adjoining building, and of removing any goods, furniture or other things therein, and of pulling down any wainscot or partition thereof;

And also, such Surveyors' fees and any other fees payable in in respect of any acts performed by the Official Referees; and also, such other costs (if any) as may have been awarded by the Official Referees as aforesaid, in any of the cases hereby provided for;

Delay of payment.

AND until such expenses shall be so paid, every person at whose expense such party structure shall have been built is hereby entitled to and shall be possessed of the sole property thereof, and of the ground whereon it stands, and the same shall be vested entirely in the person at whose expense such party structure shall have been built.

47. Recovery of Costs of Buildings.

AND BE IT ENACTED, with regard to the costs of all the works which shall be executed under this Act, incurred, either by an owner or by an occupier, either on behalf of the owners of the same premises, or on behalf of the owner of the adjoining premises, so far as relates to the recovery thereof, THAT, within Twenty-one Days after the completion of the work, it shall be the duty of the person by whom such expense shall have been incurred, to deliver to the adjoining owner of the building or premises in respect of which such expense shall have been incurred, an account in writing of the expenses of the work, including all preliminary and incidental operations; AND ALSO IF the work shall have been executed by the authority of the Official Referees, by virtue of the power hereby provided for supplying the want of consent of owners, THEN a copy of such account shall also be delivered to the Official Referees at their office; AND THAT every such account must contain a true account,—

Account.

First, Of the number of rods and parts of rods of brick-work, and of all digging, and of concrete, stone-work and other requisite materials, and of the labour required in executing so much of the work as the owner of the adjoining building shall be liable to pay, and of the respective prices thereof: and,

Secondly, Of any deduction which such adjoining owner shall be entitled to make therefrom on account of the old materials of so much of the wall or other structure pulled down, which shall have belonged to him:

Data of Account.

And also a true account of the expenses of all other preliminary and incidental operations; AND THAT all such works must be estimated and valued, in every such account, at such rates and prices as shall from time to time be fixed by the Official Referees; AND THAT IF within Ten Days from the delivery of such account, any party dissatisfied with the proportion of the amount thereof charged to him, appeal to the Official Referees, THEN upon the receipt thereof, or if, in cases of want of due consent as aforesaid, such account be delivered to the Official Referees as aforesaid, it shall be the duty of the

Examination of accounts by Official Referees.

the Official Referees to examine such account, and to certify whether they approve or disapprove of the items thereof, and whether the rates and prices are duly charged, and whether the proportion of the account charged to the party appealing be duly charged, and also to appoint how and by whom the expenses of such examination are to be borne, and also to appoint the time or times at which the amount of such account, and of such expenses payable by any party, are to be paid; AND THAT IF they certify their disapproval, or that the charges are not duly made, or the amount fairly apportioned with regard to the party appealing, THEN before any demand be made or any proceedings be taken thereon, the account must be amended, and again examined by the Official Referees, and certified as aforesaid; AND THAT IF the Official Referees certify their approval, THEN at the time or times appointed by the said Official Referees, it shall be lawful for the person entitled to such costs and expenses to demand the amount thereof; AND THAT IF, within Ten Days after the delivering of such account to the party liable to pay the same, such party do not either appeal against such account or pay the same; OR IF, within Ten Days after the demand thereof, in conformity with the certificate of the Official Referees, the amount thereof, together with the costs of the examination of the account as the Official Referees shall certify, be not paid; THEN it shall be lawful for the person entitled thereto to recover the same, or so much thereof as shall be then due, by the summary proceeding hereby provided.

Disapproval.

Approval and Demand of payment.

Recovery of amount.

48.

Reimbursements of costs of works to occupiers.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to works executed under this Act, so far as relates to the reimbursement to the occupier of any costs by him paid in respect thereof, THAT, unless there be some covenant or agreement to the contrary between the parties, it shall be lawful for such occupier and he is hereby entitled to deduct from the rents due or becoming due from him to his lessor or landlord, the amount of any such costs, charges and expenses payable by his lessor or landlord, and the costs, charges and expenses of any distress and sale made on him through the default of his lessor or landlord; AND THAT the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier.

Discharge and Repayment.

49.

Recovery of expenses of buildings.

AND BE IT ENACTED, with regard to the costs and all other expenses of pulling down, securing, repairing and rebuilding party-structures, or other parts of buildings, according to the provisions of this Act, so far as relates to the recovery thereof, amongst the several owners of the premises, THAT when such costs and expenses shall have been ascertained and paid by the owner upon whom the payment thereof shall have first fallen, THEN as to any building or tenement held

 under

under any lease, or agreement for a lease, or other agreement for the occupation thereof, made before the coming into operation of this Act, it shall be lawful for such owner, and he is hereby entitled to recover the same from the persons now bound or liable by law, or by any existing contract, to maintain and repair such buildings, in respect of which such costs and expenses shall have been incurred; BUT IF any dispute or difference arise as to the persons so bound or liable, THEN every such dispute or difference shall be referred to the Official Referees; AND THAT thereupon such Official Referees shall ascertain and determine the persons bound or liable to pay such costs and expenses, and also in what proportions such costs and expenses are to be paid by the parties liable to pay the same, and their decision shall be final; AND THAT as to any building or tenement to be held under any lease or agreement for a lease, or other agreement for the occupation thereof, made after the coming into operation of this Act, except a lease renewable for ever on a fixed fine or other customary payment, all such costs and expenses shall be charged upon the lessor granting such lease or making such agreement, and not upon any lessee or sub-lessee holding under any such lease or agreement, subject nevertheless to any express covenant or agreement made between any such lessor or lessee in that behalf; and in case of such excepted lease, such costs and expenses shall be charged upon the lessee instead of the lessor, subject as aforesaid to any express covenant or agreement in that behalf between any such lessee and his sub-lessee holding under such lessee upon other than a fixed fine or customary payment as aforesaid; AND THAT in default of such costs and expenses being duly paid, it shall be lawful for the party to whom the same shall be payable, and he is hereby entitled to receive from the occupier thereof the rents and profits of such building or tenement; AND for that purpose to give notice to such occupier to pay over to him such rents and profits; AND THAT thereupon IF such occupier fail to pay such rent and profits accordingly, THEN it shall be lawful for the person to whom such costs and expenses shall be payable to recover the same from such occupier by the summary proceeding hereby provided, in such proportions and at such times as shall be appointed by the award of the said Official Referees in that behalf; AND THAT after such notice shall be given, and before such costs and expenses shall be paid, it shall not be lawful for any person otherwise entitled to receive such rents and profits, and he is hereby disabled from bringing any action and from taking any proceeding at law or in equity to recover such rents and profits; PROVIDED always, THAT IF on the hearing of the application for the warrant to levy such costs and expenses by distress according to the provision of this Act in that behalf, the occupier, not being an owner, show that he is not bound to pay, in respect of such building or tenement, any rent or profit, or that the amount of the rent or profit payable by him is not sufficient, THEN it shall not be lawful to issue such warrant, if there be no rent due or accruing; OR

Differences.

Determination by Official Referees.

Charges.

Receipt of Rents.

Recovery of Rents.

Priority of right.

Limitation of distress.

EXPENSES OF WORKS.

IF there be rent due or accruing, THEN to the extent only of the amount of such rent; AND THAT IF such costs and expenses or any part thereof remain unpaid, AND IF the same or any future occupier be or become liable to pay rent in respect of such building or tenement, THEN from time to time, until the same be paid, it shall be lawful to levy the same by distress, according to the provisions of this Act in that behalf, upon the same or any such future occupier.

Continuance of distress until payment made.

50. Official Referees to determine contributions.

AND BE IT ENACTED, with regard to such costs and expenses of works executed under this Act, so far as relates to contribution thereto by persons bound or liable to make contribution, THAT for the purpose of enabling the party upon whom the payment of such costs and expenses shall fall, either in the first instance or subsequently, to obtain contribution from other persons, being part owners in like degree, and so bound or liable to make contribution, it shall be lawful for every such first-mentioned person, whether he be freeholder, copyholder, leaseholder, mortgagee in possession, and whatever may be his interest or the nature and extent of such his interest, and whether he hold in his own right, or in right of others, and whatever may be the kinds and degrees of their respective interests, and he is hereby entitled to a contribution from every other person having as owner an interest in the premises of whatever kind or degree; WHICH contribution is to be computed, according to the amount of his interest, in proportion to that of other persons interested, so far as such persons may be known, or can be reached by process of any court of law or equity; AND THAT it shall be lawful for any party so interested, and he is hereby entitled, to require the Official Referees to settle and determine the same by their award, and their decision shall be final; AND THAT IF the person upon whom the payment of such costs and expenses shall have fallen, have paid, in respect of the interest of another or others, either unknown or who could not be reached by process of any court of law or equity, more than his own just proportion, THEN, on the production of such award, duly made, signed and sealed, it shall be lawful for such person to have and exercise against other parties against whom such award shall be made, and he is hereby entitled to the like remedies, to compel payment of money, as are hereby given for compelling the first payment of such costs and charges of such expenses.

Proportional contributions.

Decision of Official Referees.

Recovery of excess paid by any contributor.

DRAINAGE OF HOUSES.

51. CLAUSE (B.) Making of Drains according to Schedule (H.)

AND NOW, for the purpose of facilitating the improvement of the Drainage of Houses, BE IT ENACTED, with regard to the Drains, Cesspools and Privies to buildings hereafter built, so far as relates to the making thereof, THAT from the passing of this Act all the conditions, regulations and directions contained in the Schedule (H.) to this Act annexed shall be duly observed and performed; AND THAT if any person offend in respect thereof he shall be liable to all the penalties and forfeitures by this Act imposed, in respect of any buildings either built contrary thereto or without due notice to the

Penalties.

DRAINAGE OF HOUSES.

Communications with Sewers.

Surveyor appointed, in pursuance of this Act, to inspect such buildings: PROVIDED always, with regard to such Drains, so far as relates to the communication thereof with the Sewers under the jurisdiction of the Commissioners of Sewers, THAT unless the regulations of such Commissioners now or hereafter in force be repugnant to the directions contained in such Schedule, and to the extent to which such regulations are not so repugnant, it shall be the duty of every person, and he is hereby required to make such Drains to conform to such regulations: AND THAT with regard to such Drains, except so far as is hereby otherwise provided, all the rights, powers, jurisdiction and authority vested in any such Commissioners shall be as valid and effectual as if this Act had not been passed.

Saving Powers, &c. of Commissioners of Sewers.

STREETS AND ALLEYS.

52. Width thereof.

AND NOW, FOR THE PURPOSE of making provision concerning streets and other ways of the Metropolis; BE IT ENACTED, with regard to such streets and other ways hereafter formed, so far as relates to securing a sufficient width thereof, THAT, from the passing of this Act, all the conditions, regulations and directions contained in the Schedule (I.) to this Act annexed, shall be duly observed and performed; AND THAT IF any person offend in respect thereof, he shall be liable to all the penalties and forfeitures by this Act imposed in respect of any buildings either built contrary thereto, or without due notice to the Surveyor appointed in pursuance of this Act to inspect such buildings.

Penalties.

BUILDINGS, USE THEREOF.

53. Use and occupation of cellars or rooms unfit for dwellings.

AND now, for the purpose of discouraging and prohibiting the use of buildings unfit for dwellings, and the improper use of other buildings; BE IT ENACTED, with regard to every building of the First or Dwelling-house Class, whether already or hereafter built, so far as relates to the use and occupation thereof, or to the use and occupation of any underground room or cellar thereof, THAT from and after the First day of July One thousand eight hundred and Forty-six it shall not be lawful to let separately to hire as a dwelling any such room or cellar not constructed according to the rules specified in the Schedule (K.) to this Act annexed, nor to occupy or suffer it to be occupied as such, nor to let, hire, occupy, or suffer to be occupied, any such room or cellar built underground, for any purpose (except for a ware-room or store-room); AND THAT IF any person wilfully let, or suffer to be occupied in manner aforesaid, any underground cellar or room, contrary to the provisions of this Act, THEN, on conviction thereof, before Two Justices of the Peace, such person shall be liable to forfeit, for every day that such cellar or room shall be so occupied, a sum not exceeding Twenty Shillings; AND one-half of such penalty shall go to the person who shall sue for the same, and the other half to the poor of the parish in which such unlawfully occupied cellar or room shall be situate: AND THAT on or before the First day of January One thousand eight hundred and Forty-five, it shall

Penalty.

Report by Overseers of Poor as to

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be the duty of the Overseers of the Poor, and they are hereby required to report to the Official Referees the number and situation of the dwellings within their respective parishes, of which any under-ground room or cellar shall be so occupied; AND THAT thereupon it shall be the duty of the Official Referees, and they are hereby empowered to direct such notice to be given to the owners and occupiers of such dwellings, as shall appear to such Official Referees to be best calculated to give to such owners or occupiers full knowledge of the existence, nature and consequences of this enactment: AND THAT it shall be the duty of the District Surveyors, and they are hereby required to give full effect to the directions of such Official Referees in this behalf.

number and situation of dwellings.

Notice thereon by Official Referees to Owners and Occupiers.

District Surveyors to observe directions of Official Referees.

54. Buildings near dangerous businesses as to fire.

AND now, for the purpose of making provision, concerning businesses dangerous in respect of fire or explosion; BE IT ENACTED, with regard to the following businesses; (that is to say), the manufacture of gunpowder or of detonating powder or of matches ignitable by friction or otherwise, or other substances liable to sudden explosion, inflammation or ignition, or of vitriol, or of turpentine, or of naphtha, or of varnish, or of fireworks, or painted table-covers, and any other manufacture dangerous, on account ot the liability of the materials or substances employed therein to cause sudden fire or explosion on matters, so far as relates to the erection of buildings in the neighbourhood of the place where any such business is carried on, and so far as relates to the carrying on of any such business in the neighbourhood of public ways or buildings, THAT it shall not be lawful hereafter to erect any building, of any class, nearer to than Fifty Feet from any building which shall be in use for any such dangerous business; but if a building already existing within Fifty Feet from any such building be hereafter pulled down, burnt or destroyed by tempest, such building may be rebuilt; AND THAT it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than Forty Feet from any public way, or than Fifty Feet from any other building, or any vacant ground belonging to any other person than his landlord; AND THAT IF any such business be now carried on in any situation within such distances, THEN, from the expiration of the period of Twenty Years next after the passing of this Act, it shall not be lawful to continue to carry on such business in such situations; AND THAT IF any person erect any building in the neighbourhood of any such business contrary to this Act, THEN, on conviction thereof before Two Justices, he shall forfeit a sum not exceeding Fifty Pounds; OR if any person establish anew any such business, or carry on any such business contrary to this Act, THEN, on conviction thereof before Two Justices, such person shall be liable to forfeit for every day during which such business

Distance from Buildings.

New businesses.

Prohibition after Twenty Years.

Fifty Pounds penalty and costs.

BUILDINGS, USE THEREOF.

ness shall be so carried on, a sum, not exceeding Fifty Pounds, as the said Justices shall determine; AND THAT IT shall be lawful for the Justices also to award to the prosecutor such costs as shall be deemed reasonable; AND THAT IF the offender either fail or refuse to pay such penalty and costs immediately after such conviction, THEN they may be levied by distress of the goods and chattels of the person convicted; OR IF there be no such distress, THEN such person shall be committed to the common gaol or house of correction for any time not exceeding Six Months, at the discretion of such Justices; and that by warrant under the hands and seals of Two or more Justices of the Peace.

Costs.

Distress;

Or imprisonment.

55. Buildings near dangerous and noxious Trades as regards health.

AND now, for the purpose of making provision concerning businesses offensive or noxious, BE IT ENACTED, with regard to the following trades or businesses; that is to say,—

Blood-boiler,
Bone-boiler,
Fellmonger,
Slaughterer of cattle, sheep or horses,
Soap-boiler,
Tallow-melter,
Tripe-boiler,

and any other business offensive or noxious, so far as relates to the erection of buildings in the neighbourhood of any such business, and so far as relates to the carrying on of any such business in the neighbourhood of any public way, or of other buildings of the First or Dwelling-house Class, THAT it shall not be lawful hereafter to erect any buildings of the First or Dwelling-house Class nearer to, than Fifty Feet from, any building which shall be in use for any such offensive or noxious business; but if a building already existing within Fifty Feet be hereafter burnt, pulled down or destroyed by tempest, such building may be rebuilt; AND THAT it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than Forty Feet from any public way, or than Fifty Feet from any other such buildings of the First or Dwelling-house Class; AND THAT IF any such business be now carried on in any situation within such distances, THEN, from the expiration of the period of Thirty Years next after the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation; AND THAT IF any person erect any building in the neighbourhood of any such business, contrary to this Act, THEN, on conviction thereof before Two Justices, he shall forfeit a sum not exceeding Fifty Pounds; OR IF any person establish anew any such business, or carry on any such business contrary to this Act, THEN, on conviction thereof before Two Justices, such person is hereby made liable to forfeit for every day during which building shall remain near to such dangerous business, or during which such business shall be carried on, a sum not exceeding Fifty Pounds, as the said Justices shall determine; AND THAT it shall be lawful for

Distance from buildings.

New businesses.

Prohibition after Thirty Years.

Fifty Pounds penalty and costs.

Distress;

for the Justices also to award to the prosecutor such costs as shall be deemed reasonable; AND THAT IF the offender either fail or refuse to pay such penalty and costs immediately after such conviction, THEN they may be levied by distress of the goods and chattels of the person convicted; OR, IF there be no such distress, THEN such person shall be committed to the common gaol or house of correction for any time not exceeding Six Months, at the discretion of such Justices, and that by warrant under the hands and seals of Two or more Justices of the Peace.

Or imprisonment.

56.
Use of means to mitigate noxiousness of trades.

PROVIDED always, AND BE IT ENACTED, with regard to any such offensive or noxious business, whether such trade or business be now carried on at a less distance than Forty Feet from any public way, or than Fifty Feet from any other building, or be hereafter carried on at a greater distance, yet so as to cause danger or annoyance, so far as relates to the mitigation of any penalty or punishment for unlawfully carrying on thereof, THAT every such penalty hereinbefore imposed shall be enforceable only at a special sessions of the peace summoned for that purpose, or on an appeal as hereinafter provided, or on a trial as hereinafter provided, and that, notwithstanding the said term of Thirty Years shall have expired, IF any party charged with carrying on such business show that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, THEN it shall be lawful for such Justices to receive evidence thereof, and according to such evidence to mitigate the penalty as to them shall seem fit: PROVIDED further, with regard to such offensive or noxious business, so far as relates to the adoption of means to mitigate the injurious effects thereof, THAT notwithstanding the said period of Thirty Years shall have expired, IF it shall appear to Justices whether at petty sessions as aforesaid, or on appeal, or on trial by jury, as hereinafter provided, that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate so far as possible the effects of such business, THEN although he hath not adopted all or the best means available for the purpose, yet it shall be lawful for such Justices assembled, and they are hereby empowered, to suspend the execution of their order or determination, upon condition that, within a reasonable time to be named, the party convicted do adopt such other or better means as to the said Justices shall seem fit, or before passing final sentence and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said court thought expedient for preventing the nuisance in future: Provided always, That if the matter in respect of which such penalty shall be incurred come before any Superior Court, it shall be lawful for such Court to exercise such power of mitigating such penalty, or of suspending the execution of any judgment, order or determination in

Adoption of means to mitigate after conviction.

the matter, or to make such order touching the carrying on as to the Court shall seem fit in the case.

57. Conviction and appeal as to certain trades not specified.

AND BE IT ENACTED, with regard to any business offensive, noxious or dangerous, and with regard to any building erected or continued within any such distance as aforesaid from any such business dangerous, noxious or offensive, so far as relates to a conviction in respect of any such business, and to an appeal from such conviction, THAT IF any person be dissatisfied with the decision of such Justices, AND IF, within Four Days after such decision, notice be given to the party appealed against, by or on behalf of such person of his intention to appeal; AND IF he enter into a recognizance with Two sufficient securities conditioned to try such appeal, and to abide the order of the Court, and pay to the party appealed against, such costs (if any) as shall be awarded against him, THEN it shall be lawful for such party so dissatisfied to appeal against such conviction to the Justices of the Peace at their General Quarter Sessions of the Peace, to be holden within Four Months after such conviction, for the place in which such premises shall be situate; AND THAT IF the premises be situate within the city of London, and liberties thereof, THEN the appeal must be to the Quarter Sessions thereof, OR IF the premises be situate in the counties of Middlesex, Kent or Surrey, or in the city and liberties of Westminster, or in the liberties of Her Majesty's Tower of London, then to the Quarter Sessions thereof respectively, as the case shall be; AND THAT IF, within the above-mentioned period, such appellant shall have entered into such recognizance as herein required, and if within One Month thereafter he give notice of the grounds of such appeal, THEN it shall be lawful for such Justices, and they are hereby empowered, to proceed to hear and examine, on oath, into the causes and matters of such appeal, (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by the said parties as they think proper; AND the order, judgment and determination of the said Justices in their respective Sessions shall be binding and conclusive upon all parties.

Recognizances.

Sessions.

Proceedings.

58. Clause (C.) Trial by Jury at Quarter Sessions.

PROVIDED always, AND BE IT ENACTED, That if before conviction by Two such Justices, the party complained against desire to have the matter tried by a jury, and enter into a recognizance to try such matter without delay, and to pay all costs of trial if a verdict be found against him, THEN such matter may be tried at the next practicable Court of Quarter Sessions, or whensoever the Court shall appoint; AND THAT thereupon, or on the application of such party, it shall be lawful for the said Court of Quarter Sessions, and they are hereby authorized and required to issue their warrant or precept to the Sheriff or other proper officer (as the case may be), requiring

Summoning of a Jury.

requiring him to return a competent number of persons qualified to serve on juries, according to the provisions of an Act made in the sixth year of the reign of his late Majesty King GEORGE the Fourth, "for consolidating and amending the Laws relative to Jurors and Juries;" AND THAT it shall be lawful for the said Court of Quarter Sessions, and they are hereby authorized and empowered by precept from time to time, as occasion may require, to call before them respectively every person who shall be thought proper or necessary to be examined as a witness before them on oath concerning the premises; AND THAT IF the said Court think fit, it shall be lawful for them, and they are hereby empowered to authorize the said jury to view the place in question in such manner as they shall direct, and to command the attendance of such jury, and of all such witnesses and parties, as shall be necessary or proper, until such affairs for which they are summoned shall be concluded; AND THAT the said jury shall inquire and try and determine by their verdict, whether the business in question be offensive or noxious, and whether the party in question have done any act whereby the penalty hereby imposed in respect thereof has been incurred; AND THAT, subject to the power hereinbefore conferred of mitigating such penalty or suspending their judgment, order or determination thereon, or making such order touching the carrying on of the business aforesaid, the said Court of Quarter Sessions shall give judgment according to such verdict, and shall award the penalty (if any) incurred by the defendant, and shall and may (if they see fit) award to either of the parties such costs as they may deem reasonable, which verdict, and the judgment, award, order or determination thereupon shall be binding and conclusive.

6 Geo. 4, c. 50.

Witnesses.

View of the Premises.

Verdict of Jury.

Judgment according to verdict.

And judgment to be binding.

59. AND BE IT ENACTED, with regard to any appeal in respect of a conviction for carrying on any such dangerous, offensive or noxious business, so far as relates to the place where such appeal is to be heard, THAT IF the appeal be to the General Quarter Sessions of the Peace for the county of Surrey or the county of Kent, THEN the jury (if any) to be impanneled, in pursuance of this Act, and all parties required to attend the Quarter Sessions for the said counties pursuant to such application, shall be impanneled and required to attend at some general or special adjournment of the said Quarter Sessions to be held within Six Weeks next after the original Sessions; AND THAT if the matter relate to the county of Surrey, then such adjournment shall be to some convenient place in the borough of Southwark in the said county; AND THAT IF the matter relate to the county of Kent, then such adjournment shall be to some convenient place in the borough of Greenwich in the said county; and such times and places shall be appointed by the Justices of the said counties respectively assembled at such original Sessions; AND THAT, from time to time, every further meeting of the said Sessions, for any thing to be

Appeals to Quarter Sessions for Surrey and Kent.

To Sessions at Southwark.

To Sessions at Greenwich.

Further meetings.

done upon such application, shall be appointed at or within the space of Three Weeks from the last meeting; AND THAT, from time to time, it shall be lawful for the Justices of the Peace for the said counties of Surrey and Kent respectively, and they respectively are hereby empowered and required to make such adjournment and hold such Sessions as there shall be occasion.

Adjournments.

60. Common law and statutory remedies not affected.

PROVIDED always, AND BE IT DECLARED, with regard to any business which is contrary to any existing Act of Parliament, or otherwise contrary to law, so far as relates to the operation of this Act in that behalf, THAT, notwithstanding any thing in this Act contained, this Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on, within any limits or in any manner contrary to any public, local or private Act of Parliament, or otherwise contrary to law; nor to affect, abridge or restrain the right, the duty or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on, within the limits of this Act, any offensive, noxious or dangerous business.

61. Regulation or removal of trades deemed nuisances by purchase.

AND further, for the regulation or removal of any offensive, noxious or dangerous business now carried on; BE IT ENACTED, with regard to any such business, so far as relates to the purchase thereof, or of the premises wherein it shall be carried on, THAT IF Two-thirds in number of the inhabitant householders of any parish in which such business shall be carried on, present a memorial to Her Majesty in Council, praying the removal of such business from that parish or the neighbourhood thereof, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the memorialists, or by means of a rate to be levied on the inhabitants of the said parish, or such part thereof as may be affected by such business, THEN it shall be lawful for Her Majesty to refer the matter to the Lords of the Committee of Privy Council for Trade, to consider the character of such business, whether it be offensive, noxious or dangerous; AND IF it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, THEN it shall be lawful for Her Majesty, by Order in Council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate, as aforesaid, as to Her Majesty shall seem fit; and also to direct the Sheriff of the county or other proper person in the parish or liberty in which such business is carried on, to summon a jury according to the provisions of an Act made and passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of

Memorial to Queen in Council.

Order for removal.

Compensation.

4 Vict., c.

of Woods to make a new Street from Coventry-street to Longacre, and for other Improvements in the Metropolis," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner and occupier of the premises for the restriction of the use of his buildings for such purpose; AND THAT IF, within Three Months after the verdict of such jury shall be given, and judgment thereon, the inhabitants of such parish or neighbourhood pay or tender such compensation, THEN, within Three Months from the payment or tender of such compensation, it shall cease to be lawful for the party carrying on such business to continue the same, and for any owner or occupier thereof either to carry on or to permit to be carried on such business in the same or any part of the same premises.

Unlawful to continue such trades after purchase.

62.

Funds for defraying compensation.

AND BE IT ENACTED, with regard to the funds for defraying such compensation, so far as relates to the raising thereof, THAT IF Her Majesty shall by such order direct the compensation to be paid by means of a rate, THEN it shall be lawful for the overseers of the parish to raise such sum as shall be necessary, either as a separate rate in the nature of poor's rate, or as part of the poor's rate on the inhabitants at large of such parish; OR IF in pursuance of the memorial of the inhabitants of such part of the said parish as shall be affected by the said business, it be appointed by such Order in Council that such last-mentioned inhabitants do defray such compensation, THEN it shall be lawful for the said Overseers to raise such sum as shall be necessary for that purpose; AND THAT IF such rate be so levied either on the inhabitants at large of such parish, or on the inhabitants of such part thereof as aforesaid, THEN such rate may be levied and recovered as poor's rates are leviable and recoverable.

Levy of Rate.

63.

Clause (D.) Exemption of Public Gas Works.

PROVIDED always, AND BE IT ENACTED, with regard to public gas-works and other works heretofore established within the limits of this Act, so far as relates to the operations of the provisions of this Act in reference to businesses dangerous in respect of fire or explosion, or offensive or noxious, THAT such provisions shall not be deemed to apply to any such public Gas Works, or to any premises entered or used for the purpose of Distillation or the Rectification of Spirits, under the Survey of the Commissioners of Excise or their Officers.

SURVEYORS, THEIR DISTRICTS AND DUTIES.

64.

Appointment of Districts.

AND NOW, FOR THE PURPOSE of dividing the district to which this Act is to apply into several smaller districts, for the convenient execution therein of this Act, and for appointing competent Surveyors for superintending the same in each such district, and for regulating the duties of their office; BE IT ENACTED, with regard

DISTRICT SURVEYORS.

to such districts, so far as relates to the appointment and alteration thereof, THAT at any time after this Act shall come into operation, and from time to time, it shall be lawful for the Lord Mayor and Aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the Justices of the Peace for the county of Middlesex, the county of Surrey, the county of Kent, the city and liberties of Westminster, and the liberty of Her Majesty's Tower of London, in their General Quarter Sessions respectively, or any adjournment thereof, with reference to their respective counties, city and liberties, and they, respectively, are hereby empowered, BUT SUBJECT, nevertheless, to the consent of Her Majesty's Principal Secretary of State for the Home Department, to appoint the districts to which the respective places within their jurisdiction shall belong for the purposes of this Act, and to unite, enlarge and alter such districts for the more convenient distribution of the business.

65. Appointment of Surveyors.

AND BE IT ENACTED, with regard to the Surveyors to be assigned to such districts, for the purposes of this Act, so far as relates to their appointment, THAT at any time after this Act shall come into operation, and from time to time, it shall be lawful for the said Lord Mayor and Aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the said Justices of the Peace in their General Quarter Sessions respectively, or any adjournment thereof, with reference to their respective counties, and they are hereby required, BUT SUBJECT, nevertheless, to the consent of Her Majesty's Principal Secretary of State for the Home Department, to nominate and appoint, as Surveyors, such and so many discreet persons, of the full age of Thirty Years, and properly educated and skilled in the art and practice of building, as they the said Lord Mayor and Aldermen and the said Justices shall think fit.

66. CLAUSE (E.) Practical Qualifications of Surveyors.

AND BE IT ENACTED, with regard to such Surveyors to be hereafter appointed under this Act, except present District Surveyors appointed to new districts, so far as relates to the ensuring the possession of due scientific and practical qualifications, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby empowered to appoint Three or more Architects, Surveyors or Builders to examine, together with the said Official Referees, any persons who may present themselves to be examined for the purpose of obtaining a certificate of qualification, with the view of becoming candidates for the office of Surveyors of Metropolitan Buildings of any district within the limits of this Act, AND THAT for that purpose it shall be lawful for such examiners from time to time to appoint such times as to them may seem fit, and from time to time to prescribe such course of examination as to them may seem fit, and to make any other rules for the regulation of such

Examiners to prescribe Rules.

such examination and the granting of certificates in respect thereof, subject nevertheless to the approval of the Commissioners of Works and Buildings; and that when such rules shall have been registered by the Registrar of Metropolitan Buildings, they shall continue to be in force until they shall be amended, altered or rescinded by other rules to be made by such examiners and so registered as aforesaid; AND THAT unless One Week before the election of a Surveyor for any district created by this Act, or for any district in respect of which the office of Surveyor may become vacant, there be produced by or on the part of any person being candidate for the said office, a certificate of such examiners, certifying that he has been examined, and that he was thereby found to be duly qualified for such office, to the Town Clerk of the city of London, or to the Clerk of the Peace for the county, it shall not be lawful for any Justices, by this Act empowered to appoint Surveyors, to appoint such person to be such Surveyor, and that if such person be so appointed, his election to such office shall be void.

Production of Certificates of Examination.

67.

Tenure of office.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the tenure of their office, THAT it shall be lawful for every such Surveyor and he is hereby entitled to hold such his office of Surveyor during the pleasure only of the said Lord Mayor and Aldermen and of the said Justices respectively.

68.

Functions generally.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their functions generally, THAT it shall be the duty of every such Surveyor, and he is hereby required—

To see that all the rules and directions of this Act are well and truly observed in and throughout his district; and for that purpose,

To proceed from time to time in due course, upon the receipt of any notice, or if from ignorance or neglect, or from any other circumstance, notice of any work intended to be done have not been given, then, upon such work being observed by or being made known to him, to inspect the works intended to be done, or which shall have been commenced; and to cause all the rules and directions of this Act in respect thereof to be strictly observed; and also,

To attend and perform every thing required of him by this Act, whether with or without notice; and also,

To inspect ruinous buildings and projections in danger at all times when needful, and to take all necessary measures thereupon; and also,

To survey all buildings built, rebuilt, enlarged or altered by or under the superintendence of a district Surveyor within any other district to which he shall be appointed by the official referees for that purpose; and also,

To cause a book for registering all notices, informations and complaints to be at all times kept at his office, and to enter in

DISTRICT SURVEYORS.

such book every notice, information or complaint which shall be delivered or made to him, and any proceeding thereon by him taken.

69. Qualifications and Disqualifications.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their disqualifications, THAT during the time that any such person shall act as a Justice of the Peace for the county in which his district shall be situated, it shall not be lawful for him, and he is hereby disqualified from holding the office of a Surveyor or of Deputy or an Assistant Surveyor for any district under this Act.

Not to act as a Justice of Peace.

70. Continuance of present Surveyors. 14 Geo. 3, c. 78. (1774.)

AND BE IT ENACTED, with regard to the Surveyors who, at the time of this Act coming into operation, shall have been appointed under the Act of the fourteenth year of the reign of King GEORGE the Third, mentioned in the Schedule (A.), hereto annexed, so far as relates to their continuance in office, and the application of this Act to them, THAT until they shall be removed, it shall be lawful for them, and they are hereby entitled, to continue to be the Surveyors for the purposes of this Act, and for the districts assigned to them at the time this Act shall come into operation, but subject to such alteration of such districts as may be made by virtue of any power in that behalf, and to act in all respects as if they had been appointed under this Act; AND THAT every provision in this Act applicable to district Surveyors, so far as relates to the exercise of the office of Surveyor, and to their remuneration in that behalf, shall apply to them.

Subject to this Act.

71. Declaration of official fidelity.

AND BE IT ENACTED, with regard to every Surveyor hereafter appointed, so far as relates to making a declaration of official fidelity, THAT, before any such Surveyor shall act in pursuance of this Act, it shall be his duty, and he is hereby required, to make a declaration of official fidelity, which must be administered by the said Lord Mayor and Aldermen in their Court of Aldermen, or by the said Justices of the Peace in their respective General Quarter Sessions, and must be in the form or to the effect following; that is to say,—

"I, A. B., being one of the Surveyors appointed in pursuance of an Act made and passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood, and commonly called the Metropolitan Buildings Act,' do solemnly declare, That I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my power, skill and ability, endeavour to cause the several provisions of the said Act to be strictly observed, and that without favour or affection, prejudice or malice to any person whomsoever."

Penalty for acting before Declaration made.

AND THAT IF, before making such declaration, any such Surveyor act in pursuance of this Act, THEN, on conviction thereof, he shall be

be liable to pay, for every day during which he shall so act before making such declaration, the sum of Five Pounds.

72. Regulation of duties.

AND BE IT ENACTED, with regard to the Surveyors, so far as relates to the regulation of their official duties, THAT it shall be the duty of every Surveyor for the city of London and the liberties thereof, and he is hereby required, to have an office, at his own expense, in such public situation as shall be approved by the Lord Mayor and Aldermen; AND THAT it shall be the duty of every other Surveyor, and he is hereby required, to have an office, at his own expense, in some central part of the district to which he shall be appointed, as shall be approved by the Justices of the Peace in Quarter Sessions, within whose jurisdiction he shall act; AND THAT it shall be the duty of every such Surveyor, and he is hereby required, by himself, or by some other person in his behalf, to attend at his office every day (Sundays, Christmas-day and Good Friday excepted) from Ten of the clock in the morning till Four of the clock in the afternoon; AND THAT immediately upon his appointment, and from time to time, upon every change of his residence, or of his place of business, or oftener if required, it shall be the duty of every Surveyor, and he is hereby required, to make a return to the Registrar of Metropolitan Buildings, and to the overseers of the poor of every parish or place within his district, of his name and place of abode and the place where such office shall be.

Offices.

Attendance.

Return of name and residence.

73. Surveyor pro-tempore.

AND BE IT ENACTED, with regard to such Surveyor, so far as relates to the appointment of a deputy or substitute in certain cases, THAT IF any Surveyor shall be prevented by illness, or any other unavoidable circumstances, from attending to the duties of his office, THEN forthwith it shall be his duty and he is hereby required, BUT SUBJECT to the previous consent and approval of the Official Referees, to appoint some other Surveyor, duly qualified as aforesaid, as his deputy to perform all such his duties for so long a time as he shall be so prevented from executing them; AND THAT thereupon, during such time as aforesaid, it shall be the duty of such deputy Surveyor and he is hereby required to perform all the duties of such Surveyor, and that in all respects as if he were the Surveyor appointed or confirmed under this Act; AND THAT it shall be lawful for such deputy Surveyor and he is hereby entitled to receive the fees payable in respect of the services so performed by him in such district.

Duty of Deputy.

Fees.

74. Vacancies.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the filling up of vacancies, THAT IF any vacancy shall happen through the death or removal of any Surveyor, THEN, within One Month thereafter, it shall be the duty of the Lord Mayor and Aldermen or of the Justices of the Peace in General Quarter Sessions or any adjournment thereof, as aforesaid, and they are hereby respectively required,

Occasional services.

required, to appoint a successor as herein directed; AND THAT, in the meantime, it shall be lawful for the Official Referees to direct the Surveyor of any one or more of the other districts to perform the duties of Surveyor for the vacant district; or if no district Surveyor can be spared from his own district, to appoint some other competent person duly qualified as aforesaid for that purpose; AND THAT every such Surveyor is hereby entitled to receive the fees payable in respect of the services so performed by him in such vacant district.

Fees therefor.

75. Regulation of business.

AND BE IT ENACTED, with regard to the Surveyors, so far as relates to the regulation of their business, THAT IF it shall appear to the Official Referees that the district appointed for any Surveyor is too extensive for the prompt discharge of his functions, THEN it shall be their duty to represent such their opinion to the Lord Mayor and Aldermen of the city of London, or to the Justices of the Peace with whom the appointment of a Surveyor for that district may rest; and for that purpose to transmit with their letter of representation a transcript of their "Register of Notices," with the results; AND THAT IF at any time it appear to such Official Referees, that on account of the pressure of business in any district, or on any other account, the Surveyor of that district cannot discharge his duties promptly, as regards the builders and others engaged in building operations, and efficiently as regards the purposes of this Act, THEN it shall be lawful for such Official Referees, and they are hereby empowered, to appoint any other district Surveyor to assist the Surveyor of such district in the performance of his duties; OR IF no district Surveyor can be spared from his own district, then to appoint some other competent person to give such assistance; AND THAT with regard to all buildings surveyed by such Assistant Surveyor, and all other acts done by him, it shall be the duty of such Assistant Surveyor to make returns, and to act in all respects as if he had been appointed by the said Lord Mayor and Aldermen, or by the said Justices, to be the Surveyor of such district; AND THAT every such person shall be entitled to receive the fees payable in respect of the services so performed by him.

Assistant Surveyors.

Duties of Assistants.

Fees.

76. Superintendence of Surveyors.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to the supervision of buildings, built, rebuilt, enlarged or altered by or under their professional superintendence, THAT it shall not be lawful for any such Surveyor to survey any such building for the purposes of this Act; BUT THAT such building must be surveyed by another district Surveyor, or by another Surveyor to be appointed by the Official Referees for that purpose.

77. Surveyor's Fees.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to their remuneration, THAT UPON the expiration of One Month after the roof of any building erected and surveyed under this Act,

Act, shall have been covered in, and all the walls thereof have been built to their full heights, and the principal timbers and floors shall have been fixed in their places, and UPON the expiration of Fourteen Days after the completion of any addition, alteration and repair, and UPON the expiration of Fourteen Days after each special service shall have been performed, and UPON delivering to the owner of the building an account of the fees incurred, and UPON tendering a receipt, signed with his christian and surname, and stating the amount of such account and the work done, it shall be lawful for the Surveyor, and he is hereby entitled to receive from the builder, or from the owner, or from the occupier of the building for his time and trouble and expenses in causing the rules, regulations and directions of this Act to be observed, the several fees specified in the Schedule of Fees (L.), hereunto annexed; AND THAT IF, on tender of such receipt, any builder, owner or occupier who shall become liable to pay any such fee shall refuse to pay the same, THEN, upon application to any Justice of the Peace, it shall be lawful for such Justice, and he is hereby required to summons the party complained of in the first instance, and if he do not appear, or if he fail to satisfy the said Justices as to the refusal of payment as aforesaid, it shall be lawful for such Justice, and he is hereby required to issue his warrant to levy the amount of such fee by distress and sale of the goods and chattels of the party so refusing, in like manner as poor's rates are by law recoverable, and if such fee be paid by the occupier, he shall be entitled to recover the amount thereof from the owner: PROVIDED always, THAT IF the work in respect of which such fee shall become payable have not been done in every respect agreeably to the directions of this Act, THEN it shall not be lawful for any Surveyor to receive such fee; AND THAT IF he shall so receive it, THEN, upon application to the Official Referees by any party interested in the building in respect of which such work shall have been executed, and upon its appearing that such fee has been received wrongfully, it shall be lawful for such Official Referees, and they are hereby authorized (if they think fit) to order the said Surveyor to refund such fees.

Refusal of payment.

Fees to be paid only for work done agreeably to Act.

Refunding fees.

78. Surveyor's Returns.

AND BE IT ENACTED, with regard to such Surveyors, so far as relates to a return of the business done by them, and to the inspection thereof, THAT, within Seven Days after the first day of every month, it shall be the duty of every Surveyor, and he is hereby required to make a return to the Registrar of Metropolitan Buildings, enumerating therein the number and nature of all the several works executed within the previous month under his supervision, and the fees paid to him for the same, and also a copy of the list or register of notices served upon him, with the results thereof, and to keep in his office a copy of such return; AND THAT IF any person shall apply to inspect the same, THEN on the payment of One Shilling, it shall be

Inspection of returns.

OFFICIAL REFEREES.

open for inspection, at all reasonable times; AND with regard to such return, so far as relates to the authentication and effect thereof, THAT every such return must be signed by such Surveyor, and if so signed, it shall be deemed to be a certificate that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him; BUT no such return shall be any protection from, or hindrance to, any future proceedings in respect of works not executed according to the provisions of this Act, though the same may have been done before the making of such return.

Authentication and effect of returns.

79.

Penalty for extortion, negligence or unfaithfulness.

AND BE IT ENACTED, with regard to every Surveyor, so far as relates to the discharge of his duties, THAT IF any Surveyor demand or wilfully receive any higher fee than he shall be entitled to under this Act, OR IF in his capacity of Surveyor he receive a fee for any act or omission in respect of which he is not entitled to receive any remuneration, OR IF he refuse to refund any fee wrongfully received by him, in respect whereof the Official Referees shall have made an order to that effect, OR IF at any time he wilfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, AND IF, upon complaint thereof, such conduct be made to appear to the Lord Mayor and Aldermen of the said city of London, or the Court of Quarter Sessions having jurisdiction over the district for which he shall act for the time being, THEN at any Sessions of the Peace either original, intermediate or adjourned, it shall be lawful for the said Lord Mayor and Aldermen, or the said Court of Quarter Sessions, as the case may be, and they are hereby respectively required, EITHER to fine such Surveyor in such sum of money not exceeding Fifty Pounds as they shall think fit, OR to discharge him forthwith from his said office; AND THAT IF for any such cause such Surveyor be discharged, he shall be incapable of being again appointed a Surveyor for the purposes of this Act.

Incapacitation of Surveyors.

80.

Appointment of two Official Referees.

AND NOW, FOR THE PURPOSE of providing for the appointment of competent Official Referees to superintend the execution of this Act throughout all the districts to which it is applicable, and also to determine sundry matters in question incident thereto, as well as to exercise, in certain cases, a discretion in the relaxation of the fixed rules and directions of this Act, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business; BE IT ENACTED, with regard to the Official Referees, so far as relates to their appointment, to their qualifications and to the tenure of their office, THAT it shall be lawful for Her Majesty's Principal Secretary of State acting for the Home Department, and he is hereby empowered to appoint Two Persons, being of the profession

Tenure of Office.

of

of an Architect or Surveyor, to be Official Referees of Metropolitan Buildings, and from time to time, as he shall think proper, to remove such Official Referees, and in their place to appoint other persons so qualified; AND THAT while such person shall so hold the office of Official Referee, it shall not be lawful for such person, and he is hereby expressly prohibited to act as Surveyor, either alone or with any partner, or by an agent.

Not to act as Surveyors.

81.
Their Functions generally.

AND BE IT ENACTED, with regard to such Official Referees, so far as relates to their functions generally, THAT it shall be the duty of such Official Referees and they are hereby required to superintend the execution of this Act, by the several district Surveyors already existing, or hereby authorized to be appointed, and to perform the several matters to them respectively assigned by the provisions of this Act, and to determine all questions referred to them, whether expressly by this Act, or at the instance of any one or more of the parties concerned.

Evidence on Oath.

82.
Matters of reference.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to their jurisdiction, THAT IF any doubt, difference or dissatisfaction, in respect of any matter within the limits of this Act, arise between any parties concerned, or between any party and any surveyor, or between any two surveyors, as to any act done or to be done in pursuance of this Act; or as to the effect of the provisions thereof in any case; or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect; and particularly as to whether the requirements implied in terms of qualification, applied to sites, to soils, to materials or to workmanship or otherwise, and denoting good, sound, fireproof, fit, proper, or sufficient, are fulfilled in certain cases; or as to the district in which any building, matter or thing is to be deemed to be situate, especially in cases where such building, matter or thing is partly in one district and partly in another; or as to the expenses to be borne by the respective owners of premises parted by the same party-walls, or the proportions thereof; or as to the proportions of the expense to be borne by the occupier, or by the owners of premises, in respect of any work executed, or any other matter whatever; THEN it shall be lawful for any party concerned, and he is hereby entitled, to require the Official Referees to determine such matter, BUT so that such requisition be made in writing, and that it set forth, either generally or otherwise, the matters in respect of which the determination of the Official Referees is required; AND THAT the determination of such Referees, or of One of such Referees, with the assent of the Registrar of Metropolitan Buildings, as to all or any of the points in difference on which such Referees shall make their award, and as to the costs, charges and expenses of such reference, shall be binding on all parties to such reference.

One Referee may act.

83. Award and powers of Referees.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to their authority in respect of any reference to them, and to the effect of their award upon the rights and interests of the owners and occupiers of property, THAT it shall be lawful for such Referees and they are hereby empowered to exercise all such powers of arbitrators as they would have had in case they had been appointed under an order of Her Majesty's Court of Queen's Bench at Westminster; AND THAT if such award be given in writing, and be sealed by the official seal of the Registrar of Metropolitan Buildings, it shall be as effectual as if made under an order of reference by such Court, and shall be enforced by the said Court in all respects as if made under an order of such Court; AND THAT it shall be binding and conclusive against every person, including The Queen's Majesty, Her heirs and successors, claiming any estate, right, title, trust, use or interest in, to or out of the said premises or any part thereof, either in possession, reversion, remainder or expectancy, and against every other person whomsoever.

Legal effect of awards.

Effect as to persons.

84. Clause (F.) Partial Revocation of authority of Official Referees. Not to affect the award by the Official Referees.

AND BE IT ENACTED, with regard to any reference to the said Official Referees, so far as relates to the revocation of their authority, THAT the power and authority of the Official Referees shall not be revocable by any party to such reference without the consent of all parties thereto; AND THAT although any party shall not attend upon such reference, it shall be lawful for such Official Referees to proceed with the reference and to make their award.

85. Clause (G.) Taking of Evidence by the Official Referees.

AND BE IT ENACTED, with regard to such reference, so far as relates to the evidence of any matter thereof, THAT it shall be lawful for the Official Referees, and they are hereby empowered by their summons in writing, sealed with the seal of office of the Registrar of Metropolitan Buildings, to require the attendance of any person who may be able to give evidence in the matter of any reference to them, and to require by such summons the production of any documents to be mentioned therein; AND THAT IF in addition to the service of such summons an appointment of the time and place of attendance in obedience thereto, signed by one at least of the Official Referees before whom the attendance is required, be also served either together with, or after the service of, such summons, THEN if the party so summoned do not attend in obedience thereto, such party shall be liable to be proceeded against as for a contempt of court; AND THAT every person whose attendance shall be required shall be entitled to the like conduct money and payment of expenses as for and upon attendance at any trial; AND THAT no person shall be compelled to produce under any such summons any writing or other document that he would not be compelled to produce at a trial, or to attend on more than two consecutive days to be

Appointment of time and place.

Compensation for attendance.

Production of documents.

be named in such summons; AND THAT it shall be lawful for the Official Referees, and they are hereby respectively authorized and required to administer an oath to such witnesses as may come before them, or in cases where affirmation is allowed by law, instead of an oath, to take their affirmation; AND THAT IF upon such oath or affirmation, any person making the same, wilfully and corruptly give false evidence, THEN every person so offending shall be deemed to be guilty of Perjury.

Administration of Oaths.

Penalty for Falsehood.

86. Effect of awards as evidence.

AND BE IT ENACTED, with regard to such award, so far as relates to the effect thereof as evidence of the matter thereof, THAT IF on the trial or hearing of any cause or matter in any court of law or equity, or elsewhere, any copy of an award, signed and sealed with the seal of the said Registrar, be produced, THEN it shall be the duty of all Judges, Justices and others, and they are hereby required to receive the same as primâ facie evidence of the matters therein contained.

87. Declaration of official fidelity.

AND BE IT ENACTED, with regard to the Official Referees, so far as relates to the declaration of official fidelity, THAT before any Official Referee shall act in pursuance of his appointment, it shall be his duty and he is hereby required to make the following Declaration, to be administered by the Chief Baron or any other of the Barons of Her Majesty's Court of Exchequer; that is to say,—

> "I, A. B., do solemnly declare, That I will diligently, faithfully and impartially execute the duties of an Official Referee in relation to matters arising under the provisions of the Act made and passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood, and commonly called 'The Metropolitan Buildings Act.'"

88. Regulation of business of the Official Referees.

AND BE IT ENACTED, with regard to such Official Referees, so far as relates to the regulation of the business of their office, THAT when any matter is by this Act required, directed or permitted to be done by the Official Referees, the same may be done by either of them, with the assent of the Registrar of Metropolitan Buildings, unless express provision to the contrary be made, and if done by any One of them with such assent, it shall be as valid and effectual as if done by both of them; AND THAT, subject to such restrictions and regulations as may be made in that behalf by the Commissioners of Works and Buildings it shall be lawful for the Official Referees to appoint one of their number, under their hands and the seal of the Registrar of Metropolitan Buildings, to make any inquiry or any survey which shall appear to them either necessary or expedient in order to enable them to determine any matters in reference.

Official Referees may delegate powers.

REGISTRAR OF METROPOLITAN BUILDINGS.

89. Appointment of Registrar.

AND, for the purpose of duly recording relaxations of the requisitions of this Act, made in pursuance of the provisions hereof in that behalf, and of providing for the revision from time to time both of such relaxations and requisitions, and of providing against the partial exercise of the powers of this Act, and for the more effectually providing for the due recording of the acts of the Official Referees, and for exercising a due control thereon; BE IT ENACTED, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby authorized and required to appoint a Registrar of Metropolitan Buildings; AND THAT such Registrar shall hold his office during the pleasure of the said Commissioners; AND THAT, subject to the provisions of this Act, it shall be lawful for the said Commissioners to make rules for regulating the execution of the duties of the office of the said Registrar; AND THAT it shall be the duty of such Registrar to keep a seal, and to affix such seal to all documents made by the said Official Referees, and required to be sealed; and to keep all the documents and records relating to the business of their office, and to register the same: PROVIDED always, with regard to such Registrar, so far as relates to the affixing the seal of office to any document, THAT IF it shall appear to the said Registrar that any such documents are contrary to law, or not complete in any of the requisite forms, or beyond the competence of the said Official Referees, either with regard to the provisions of this Act or any rules or regulations prescribed for their guidance, by the said Commissioners of Works and Buildings, THEN it shall be the duty of the said Registrar to refuse to affix the seal; AND THAT thereafter, if the said Official Referees shall so require, it shall be his duty and he is hereby required to report the matter and the particular grounds and reasons for his refusal to the said Commissioners; AND THAT upon the receipt of such report it shall be lawful for the said Commissioners to authorize the said Registrar to affix the seal or to confirm his refusal: PROVIDED always, with regard to such office of Registrar, so far as relates to the execution of his duties in certain events, THAT IF such Registrar be ill or otherwise unable to discharge the duties of his said office, OR IF he be absent, THEN it shall be lawful for the said Commissioners of Works and Buildings to appoint some other person to act temporarily in his behalf, and to assign to such person such part of the remuneration of the said Registrar, or otherwise to remunerate him as the Lords of the Treasury shall appoint in that behalf.

Tenure of office.

Rules of Office.

Seal of Office.

Use of Seal of Office.

Report of objections by Registrar.

Authority of Commissioners of Woods.

Interim Registrar.

90. Declaration of official fidelity.

AND BE IT ENACTED, with regard to the Registrar, so far as relates to the declaration of official fidelity, THAT before any Registrar shall act in pursuance of his appointment, it shall be his duty and he is hereby required to make the following Declaration, to be administered by the Chief Baron, or any other of the Barons of Her Majesty's Court of Exchequer; that is to say,—

"I, A.B.,

"I, A. B., do solemnly declare, That I will diligently, faithfully and impartially execute the duties of Registrar in relation to matters arising under the provisions of an Act made and passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood,' and commonly called 'The Metropolitan Buildings Act.'"

91. Custody and inspection of Records of Official Referees.

AND BE IT ENACTED, with regard to such awards, certificate and other records of the said Official Referees, so far as relates to the custody and the inspection thereof, THAT all such awards, certificate and other documents relating to the business of their office shall be kept in the office of the Registrar of Metropolitan Buildings; AND THAT IF, for the purpose of evidence or otherwise, any party require a copy of such award, or to inspect the same, THEN, on payment of the expense thereof, and of such fees as may be appointed in that behalf, it shall be lawful for such party, and he is hereby entitled to demand from the Registrar an inspection thereof, or a copy thereof or extract therefrom; AND THAT, on such payment and demand, it shall be the duty of such Registrar, and he is hereby required to give, under his hand and seal of office, a copy of any such award, or any other document, to the person so demanding the same.

Copies of awards.

Authentication of copy, and fees therefor.

92. Office of Registrar, and regulation of business.

AND BE IT ENACTED, with regard to the Registrar of Metropolitan Buildings, so far as relates to his office or place of business, and to the regulation of the business thereof, THAT it shall be lawful for the Commissioners of Works and Buildings, and they are hereby required to appoint, in some central and convenient situation within the city of London or the city of Westminster, an office for carrying on the business of the Registrar of Metropolitan Buildings, and registering all documents relating to such business; and in such office it shall be the duty of such Registrar and he is hereby required—

To keep a Register of all matters referred to the Official Referees, and otherwise of all matters which shall come under their cognizance in pursuance of this Act; and also,

To keep and preserve all documents connected with the duties of Official Referees; and also,

To receive all notices requiring any act to be done by them, and to file and number them in the order in which they are received;

93. Registration of awards, &c.

AND BE IT ENACTED, with regard to all the awards and certificates, and all documents relating to the business of the Official Referees, so far as relates to the registration thereof, THAT the same shall be registered not only chronologically in the order in which they are received, but according to the subject-matters thereof, and also

according to the order of and in relation to the provisions of this Act.

94. Remuneration of Official Referees and Registrar.

AND BE IT ENACTED, with regard to such Official Referees and Registrar, so far as relates to their remuneration, THAT it shall be lawful for Her Majesty to grant to each of such Official Referees and the said Registrar a salary not exceeding One thousand Pounds by the year, in Four equal quarterly payments; AND THAT IF any such Official Referee or such Registrar shall be appointed, or shall die, resign or be removed from office, in the interval between two quarterly days of payment, THEN he shall be entitled to a proportionate part of the salary for the period of such interval during which he shall hold such appointment.

Quarterly payments.

95. Clause (I.) Disqualification of Official Referees and Registrar.

PROVIDED ALWAYS, AND BE IT ENACTED, with regard to the said Official Referees and Registrar, so far as relates to their qualifications, THAT if any person be or become Commissioner, receiver, steward or agent for or on behalf of any owner of houses within the limits of this Act, THEN such person shall not be eligible to the office either of Official Referee or of Registrar under this Act; AND THAT if after having been appointed thereto, he shall become such Commissioner, receiver, steward or agent, THEN he shall cease to be qualified to hold such office of Official Referee or Registrar, and thereupon such office shall be vacant without prejudice nevertheless to any acts done by any such person in his capacity of Official Referee or Registrar, so far as other persons are affected thereby.

Offices vacant.

96. Funds for defraying expenses of the Official Referees and Registrar.

AND FORASMUCH as the services of such Official Referees and of such Registrar, will be employed chiefly on behalf of the localities comprised within the limits of this Act, it is expedient to provide for the payment of a portion of their salaries by means of a county rate, or by a rate in the nature of a county rate on such localities, in proportion to the assessed value of inhabited houses and buildings therein, or as near thereto as may be; Now, for that purpose, BE IT ENACTED, with regard to such Official Referees and Registrar, so far as relates to the payment of a portion of their salaries out of local funds, THAT it shall be lawful for the Lord Mayor and Aldermen of the city of London, and they are hereby required, to direct the Chamberlain of the said city, and for the Justices of the Peace for the several counties of Middlesex, Surrey and Kent, and they are hereby respectively required to direct the treasurer of such respective counties to pay, by two half-yearly payments, in the months of June and December in every year, to or into the hands of the Cashier of the Commissioners of Works and Buildings, on account of the said Official Referees and of the said Registrar, the several sums of money hereinafter mentioned,

mentioned, as and by way of contribution to such salaries; that is to say,—

The city of London, and the Liberties and the Suburbs thereof - -	the sum of £. 100
The county of Middlesex - - - -	1,000
The county of Surrey - - - - -	320
The county of Kent - - - - -	80
	£. 1,500

AND it shall be lawful for the said Justices and they are hereby empowered and required to cause the same to be levied by a rate upon the several parishes and places within the limits of this Act, in such amounts as to such Justices may seem proper, having regard to the assessed value of the inhabited houses and the buildings in such places respectively, in addition to the county rate in respect thereof; AND THAT for the purpose of levying such sums, they shall be deemed to be part of the county rate, and leviable by all the ways and means by which a county rate is leviable, and subject in all respects to the legal incidents of a county rate.

Nature of Levy.

97. Payments of Official Referees and Registrar out of the Consolidated Fund.

AND BE IT ENACTED further, with regard to the Official Referees and Registrar, so far as relates to the payment of the balance of their Salaries, THAT such balance shall be payable and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

98. Fees of Office, and Application thereof.

AND BE IT ENACTED, with regard to the fees payable to the Registrar, so far as relates to the appointment thereof, and to the application thereof, THAT from time to time it shall be lawful for the Commissioners of the Treasury to appoint such fees to be paid in respect of the services to be performed by the said Official Referees or by the said Registrar, as shall be deemed requisite to defray the expenses of the said office or incident to such services, and the salaries or other remuneration of any persons employed under the Registrar in the execution of this Act, with the sanction of the Commissioners of the Treasury, and which are not otherwise provided for by this Act; AND THAT the balance, if any, shall be carried to the Consolidated Fund of the United Kingdom, and be paid accordingly into the receipt of Her Majesty's Exchequer at Westminster; AND THAT it shall be lawful for the Commissioners of the Treasury to regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for; AND THAT it shall be the duty of the Registrar and he is hereby required, to cause a List of the Fees so appointed by virtue of this Act to be fixed up in some conspicuous part of his office.

Balance to Consolidated Fund.

Regulations as to receipt, custody and accounts.

List of Fees to be hung up.

LEGAL PROCEEDINGS.

99. Informalities in distress.

AND NOW, FOR THE PURPOSE of regulating sundry legal proceedings, BE IT ENACTED, with regard to any distress for any

LEGAL PROCEEDINGS.

sum of money to be recovered by virtue of this Act, so far as relates to the remedying of any damage occasioned by any irregularity therein or in reference thereto, THAT notwithstanding there be any defect of form in the proceedings relative to any such distress, neither the distress itself shall be deemed unlawful, nor shall the party making the same be deemed a trespasser ab initio; BUT THAT IF any irregularity be committed by any party, THEN, subject to the conditions in this Act prescribed with regard to actions brought for any thing done in pursuance thereof, it shall be lawful for the person aggrieved by such irregularity and he is hereby entitled to recover full satisfaction for the special damage only; AND THAT by action on the case, and not by any other action whatsoever.

Action for damages.

100. Tender of amends.

AND BE IT ENACTED, with regard to any action for any irregularity or other proceeding, so far as relates to the tender of amends or payment of money into court in respect thereof, THAT IF, before such action be brought, the party who committed or caused to be committed any such irregularity or wrongful proceeding, make or cause to be made tender of sufficient amends, THEN the plaintiff shall not be entitled to recover in such action; AND THAT although such tender shall not have been made, yet IF at any time before issue joined the court in which such action shall be depending, or a Judge of any of the superior courts grant leave, THEN it shall be lawful for the defendant to pay into court any sum of money, by way of compensation or amends, in such manner and under such regulations, as to the payment of costs and the form of pleading, as is and are customary and in force in the said superior courts.

Payment of Compensation into Court.

101. Recovery of money under awards.

AND BE IT ENACTED, with regard to every sum of money by this Act, or by any award or certificate or other proceeding in pursuance of or in accordance with this Act, charged upon any person in respect of any work done in pursuance of or in accordance with this Act, so far as relates to the recovery of such sum of money, THAT it shall be lawful for the party claiming the same to proceed in a summary way before any Two Justices of the Peace, OR IF the matter arise within the district of the Metropolitan Police, THEN before any Police Magistrate having jurisdiction within that district; AND THAT, on proof of such sum of money being still due, it shall be lawful for such Justices or such Police Magistrate, and they respectively are hereby required to issue a warrant to levy the amount thereof, and also the costs of the proceeding to be levied by distress of the goods and chattels of the person in default; AND IF such person have no goods and chattels whereon to distrain, OR IF such goods and chattels be insufficient for that purpose, THEN it shall be lawful for such Justices or Police Magistrate, or for any other Justice or Police Magistrate, to

Distress.

Imprisonment.

to commit the person in default until the amount of such sum so due, and of such costs, shall have been fully paid, or until the party shall be discharged by or in accordance with the provisions of any Act for the relief and discharge of Insolvent Debtors.

102. Procecution of offences.

AND BE IT ENACTED, with regard to all offences against the provisions of this Act for which no other proceeding is provided, so far as relates to the prosecution thereof, THAT it shall be lawful to proceed by complaint before any One Justice of the Peace, or before a Police Magistrate as aforesaid; AND THAT it shall be lawful for such Justice to summon the party against whom such complaint shall be made; AND THAT IF such party fail to appear in pursuance of such summons, THEN it shall be lawful for such Justice or magistrate, or any other Justice or magistrate, to issue a warrant under his hand and seal, to compel the appearance of such party; AND THAT on conviction of the offender before Two Justices, or before any police magistrate, it shall be the duty of such Justices or magistrate, and they are hereby required, to cause the amount of the penalty hereby imposed in respect of such offence, and of the costs of any such proceeding in respect of such offence, to be levied by distress of the goods and chattels of the offender; AND THAT IF such offender have no goods and chattels whereon to distrain, OR IF they be insufficient for that purpose, THEN it shall be lawful for such Justices or magistrate, or for any other Justice or magistrate, and they are hereby empowered, either on failure of such distress or in the first instance, to commit the offender for any period not exceeding Three Months, till he shall have paid the full amount of such penalty and such costs.

Complaint.

Summons.

Compulsory appearance.

Distress.

Imprisonment.

103. Removal of orders, &c. into superior Courts; Certiorari.

AND BE IT ENACTED, with regard to every order which shall be made by virtue of or under this Act, and to any other proceeding to be had touching the conviction of any offender against this Act (except proceedings touching the conviction of any person offending for carrying on a trade or business offensive, noxious or dangerous, contrary to this Act, otherwise than those hereinbefore specified), THAT it shall not be lawful for any person to remove such order or other proceeding by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster; and every such order and other proceeding is hereby declared not to be so removable.

104. CLAUSE (H.) Appeal from Convictions as to Penalties.

AND BE IT ENACTED, with regard to any conviction for any offence in respect of which a penalty is by this Act imposed, so far as relates to the appeal from any such conviction in respect thereof, THAT IF any party be dissatisfied with the decision of the Justices in any case in which such penalty may be proceeded for, and if within Four Days after such decision, notice be given by or on behalf of such party to the

party appealed against of his intention to appeal against such decision, and of the grounds of such appeal; AND IF the appellant enter into a recognizance with Two sufficient Sureties conditioned to prosecute such appeal, and to abide the order of the Court, and to pay to the party appealed against such costs (if any) as shall be awarded against him, THEN it shall be lawful for such party so dissatisfied to appeal against such conviction to the Justices of the Peace at their General Quarter Sessions of the Peace, to be holden within Four Months after such conviction; AND THAT IF within such period of Four Days such appellant have entered into such recognizance as is herein required, THEN it shall be lawful for such Justices, and they are hereby empowered to proceed to hear and examine on oath into the cause and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by either of the said parties as they think proper, and the order, judgment and determination of the said Justices shall be binding and conclusive.

Proceedings thereon.

105. Limitation of actions for penalties.

AND BE IT ENACTED, with regard to every penalty or forfeiture incurred under this Act, so far as relates to the limitation of proceedings for the recovery thereof, THAT IF, within Six calendar Months next after such penalty or forfeiture shall have been incurred, an action or prosecution be not brought or commenced against the person liable in respect thereof, THEN thereafter it shall not be lawful for any person to bring such action or commence such proceeding in respect of such penalty or forfeiture.

106. Recovery of penalties.

AND BE IT ENACTED, with regard to every such penalty or forfeiture, so far as relates to the recovery and the appropriation thereof, THAT it shall be lawful for any party to sue or proceed for the same; AND THAT if such penalty be not otherwise specifically appropriated, THEN the person so suing or proceeding shall be entitled to receive One-half thereof for his own benefit, and the other Half shall be applied to Her Majesty's use, and shall be paid to the Sheriff of the county, city or town where the same shall have been imposed; and that all convictions before Justices shall be returned to the Court of Quarter Sessions, under the provisions of an Act passed in the third year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for the more speedy Return and levying of Fines, Penalties and Forfeitures, and Recognizances estreated," and shall be paid to the Sheriff of the county, city or town, and shall be duly accounted for by him.

Appropriation.

107. Regulation of actions against persons acting under this Act.

AND, for regulating proceedings against persons acting in pursuance of this Act; BE IT ENACTED, with regard to any action or suit against any person in respect of any act or thing done or intended to be done in pursuance of this Act, so far as relates to the limitation thereof, and

and to the notification thereof to the offending party, and to the venue thereof, and to the pleadings therein, and to the evidence of the matters thereof, and to the verdict therein, and to the judgment of the court thereon, and to the costs of such action, and to the recovery of such costs, THAT, after the expiration of Six Months next after the fact committed, it shall not be lawful to bring any such action or suit against any person in respect of any such act; AND THAT if Twenty-one Days at the least before the commencement of the action or suit, notice in writing of an intention to bring such action or suit, and of the grounds of action, be not given to every person against whom such action or suit shall be brought, THEN it shall not be lawful for any person to bring any such action or suit against any person in respect of any such Act; AND THAT IF the cause or matter of any such action or suit arise within the said city of London or the liberties thereof, THEN such action or suit must be laid in the city of London, and not elsewhere; AND THAT IF the cause of any action or suit arise in any part of the limits aforesaid, out of the said city of London and liberties thereof, THEN it must be laid and tried in the county of Middlesex, and not elsewhere; AND THAT in every such action or suit it shall be lawful for the defendant, and he is hereby entitled, to plead the general issue; and at the trial to be had thereof, to give this Act and the special matter in evidence, and to prove that the matter or thing for which such action or suit is brought was done in pursuance and by the authority of this Act; AND THAT IF, upon the trial of such action, it appear that the said matter or thing has been so done in pursuance of this Act, OR IF it appear that such action or suit was brought before the expiration of Twenty-one Days after such notice given as aforesaid, OR IF it appear that sufficient satisfaction was made or tendered before such action was brought, OR IF upon plea of payment of money into court, it shall appear that the plaintiff has not sustained damages to a greater amount than the sum paid into court, OR IF any such action or suit be not commenced within the time herein for that purpose limited, OR IF it be laid in any other county or place than as aforesaid, THEN and in every such case it shall be the duty of the jury, and they are hereby required to find for the defendant; AND THAT IF a verdict be found for the defendant, OR IF the plaintiff in any such action or suit become nonsuited, or discontinue or suffer a discontinuance of any such action or suit, OR IF judgment be given for the defendant therein, on demurrer or by default or otherwise, THEN the defendant shall be entitled to have judgment to recover full costs of suit, and to such remedy for recovering the same as any defendant shall have by law.

Limitation of action.

Notice of action.

Venue in London.

Venue in Middlesex.

Plea and evidence.

Verdict.

Costs.

108. Security for Costs.

AND further, for the prevention of vexatious litigation, BE IT ENACTED, with regard to every action in respect of any matter or thing

LEGAL PROCEEDINGS.

thing done or intended to be done in pursuance of this Act, so far as relates to the costs of such action, THAT IF the defendant apply to the superior court at Westminster in which such action is pending, or to any Judge of any of the said courts, THEN it shall be lawful for such court or any such Judge to require the plaintiff to give such security as such court or Judge shall think fit, for the payment of all costs, charges and expenses incurred or to be incurred in and about the said action, and which shall be or become payable by him on the taxation thereof by the proper officer.

109. Prosecutions for preventing neglect or evasion of this Act.

AND BE IT ENACTED, with regard to any penalty or forfeiture incurred by any default in complying with the provisions of this Act, so far as relates to proceedings for the recovery thereof, THAT, at any time within Three Months after such penalty or forfeiture shall have been incurred, it shall be lawful for any surveyor appointed or confirmed by virtue of this Act, and all other persons, and they are hereby entitled to commence and prosecute proceedings for the recovery thereof, or for the recovery of the expenses of pulling down or altering of any building against any owner, occupier, builder, workmen or other person, or for any default made in complying with the provisions of this Act; PROVIDED always, THAT IF such proceedings be taken by any person, except one of the Surveyors, or except the Official Referees, THEN Seven Days notice of the intention to commence such proceedings must be given at the office of the Surveyor of the district, and at the office of the Registrar of Metropolitan Buildings.

Notice of action.

MISCELLANEOUS.

110. Notifications.

AND BE IT ENACTED, with regard to notices by this Act required, so far as relates to the service thereof upon the owner or occupier of any building or ground, THAT every such notice must be given as follows; that is to say—

Married female.

If such owner be a married female, other than a cestuique trust in regard to such property, THEN such notice must be given to the husband of such married female; or

Infant, Idiot or Lunatic.

If such owner be an infant, idiot or lunatic or cestuique trust, THEN such notice must be given to the guardian, trustee or committee of such infant, idiot or lunatic or cestuique trust; or

Owner unknown.

If such owner, husband, trustee, guardian or committee is not known or cannot be found, THEN such notice must be given to the occupier of such building, fence or ground to which it shall relate; or

Building unoccupied.

If such building or ground be unoccupied, THEN such notice must be affixed to some conspicuous part of such building, fence or ground, at a height of not more than Nine Feet from the ground:

Immediate landlord.

AND IF the person in the occupation of any building or premises, ground or tenement, in respect of which notice is to be given, allege

that

that he is a tenant from year to year, or a tenant at will, and not the owner thereof, within the intent and meaning of this Act, THEN such notice must be given to the immediate landlord of such occupier, and it shall be the duty of such occupier, and he is hereby required to inform any person by whom such notice shall be required to be given, or any other person applying on his behalf, of the name, place of residence, or place of business of such owner or landlord, or of his agent or other person by whom the rent of such building, premises, ground or tenement shall be received; AND IF such owner or landlord be not in receipt of the whole of the rents or profits of such building, premises, ground or tenement; AND IF any notice shall be served upon such owner or landlord, THEN, immediately upon the receipt thereof, it shall be his duty and he is hereby required to transmit to his immediate landlord or his agent, and also to any other person being part owner in such building or premises, ground or tenement, or in receipt of the rents or profits thereof under the same immediate landlord, or to the agent of such person, a copy of such notice, and so on in turn, it shall be the duty of every landlord, agent or other person by whom such notice shall be received, to transmit it to any such landlord, agent or other person being part owner of any such building or premises, ground or tenement, to the intent that every person affected by the work or proceeding to which such notice relates may have due notice thereof: PROVIDED ALWAYS, with regard to every such notice, so far as relates to the service thereof upon any such owner, THAT IF it be served upon the immediate landlord of the occupier or upon his agent, by or on behalf of the person by whom it is hereby required to be served in the first instance, THEN, although it may not be served by such immediate landlord upon any other landlord or owner, such service is to be deemed to be sufficient service; BUT THAT NEVERTHELESS, if any owner suffer damage by the failure of any other person, being either the occupier or any person holding under such owner, to serve such notice, THEN such owner shall be entitled to recover the amount thereof against such person by whom such damage shall have been occasioned; AND THAT every notice served under this Clause, on any person, must contain a copy of the provisions thereof, so far as they require him to transmit the same to his immediate landlord, or the agent of such landlord.

Part ownership.

Service of Notices.

Damage arising from defective service.

Requisites of Notice.

111. Mode of service upon occupier.

AND BE IT ENACTED, with regard to notices by this Act required, so far as relates to the mode of service thereof upon the occupier of any building or ground, THAT IF such notice be intended for the occupier of any building or ground, THEN it must be given either personally or by leaving the same with some inmate at the premises, or it must be affixed as aforesaid.

112. Mode of service upon owners, by delivery.

AND BE IT ENACTED further, with regard to all such notices, so far as relates to the mode of service thereof upon owners by delivery, THAT every such notice (except such notice as may, according to the provision in that behalf, be sent by post), must be given either personally or by leaving the same with some inmate at the usual place of abode of such party, or if that be not known, then at his last known place of abode; AND THAT every such notice, when so given to such persons respectively as aforesaid, or left at the last known place of their respective abodes, or when so affixed as aforesaid, according to the cases hereinbefore mentioned, shall have the same effects and consequences as if given to the actual owner.

Effect of notice.

113. Mode of service upon owners, by transmission.

AND BE IT ENACTED further, with regard to Notices, so far as relates to the mode of service thereof by transmission, THAT IF any owner, upon whom the same is required to be served, be not within the limits of this Act, or have not, within the limits of this Act, any agent acting in his behalf in the matter of the premises to which the notice refers, THEN it shall be lawful to give notice by post-letter, duly registered according to the practice for the time being, adopted with regard to letters transmitted by post; BUT so that, nevertheless, such letter be posted in such time as will afford to the person addressed, after the receipt of such letter, the full period of notice required in the case.

114. Notices for Surveyors and Official Referees.

AND BE IT ENACTED, with regard to notices, so far as relates to the service thereof upon the Surveyors and upon the Official Referees, THAT IF the notice relate to the Surveyor, THEN such notice must be served at the office of the Surveyor; AND THAT IF the notice relate to the Official Referees or any of them, THEN such notice must be left at the Office of the Registrar of Metropolitan Buildings.

115. Consents by incapacitated persons.

AND BE IT ENACTED, with regard to consents by this Act required to be given by the owner or occupier of any building or ground, so far as relates to the making thereof on behalf of incapacitated persons, THAT IF such owner or occupier be a married female, not being a cestuique trust in regard to the property to which such consent relates, THEN such consent must be given by the husband of such married female; OR THAT IF such owner or occupier be an infant, idiot or lunatic or cestuique trust, THEN such consent must be given by the guardian, trustee or committee of such infant, idiot or lunatic or cestuique trust; OR THAT IF such owner or occupier, husband, trustee, guardian or committee be not known or cannot be found, THEN, with a view to protect the interests of such parties, as well as to facilitate the purposes of this Act, it shall be lawful for the Official Referees, and they are hereby authorized by writing duly sealed by the Registrar of Metropolitan Buildings, to give such consent as may be

be requisite, upon such terms and subject to such conditions as may seem fit to them, having regard alike to the nature and purpose of the subject-matter in respect of which such consent is to be given.

116. Exemption from Stamp-duty.

AND BE IT ENACTED, with regard to the following documents, so far as relates to the payment of stamp-duty in respect thereof, THAT every certificate and every award required to be made or signed by the Surveyor or the Official Referees, shall be and is hereby exempted from stamp-duty.

117. Public Act.

AND BE IT ENACTED, THAT this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and other persons whomsoever, without specially pleading the same.

118. Amendment of Act.

AND BE IT ENACTED, THAT this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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SCHEDULES to which the foregoing ACT refers.

SCHEDULE (A.)—(*see* §. 1.)

Containing a Description of the Acts and Parts of Acts repealed by this Act.

DATE OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
1st.—14 Geo. III. c. 78. (1774.)	An Act for the further and better Regulation of Buildings and Party-walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, and the Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain conditions, Builders and other persons against the Penalties to which they are or may be liable for erecting Buildings within the limits aforesaid, contrary to law.	-- Wholly; except so far as any such Act may repeal any other Act, either wholly or partly, and except as to offences committed, penalties incurred, and fees payable, and any proceedings taken or commenced, or which might be taken or commenced, under the said Act, on or before the said First day of January One thousand eight hundred and Forty-five; and except the whole of the several sections of the said Act which relate to the keeping of fire-engines and ladders and fire-cocks (§. 74, 75), and to the fees or rewards to turncocks and engine-keepers (§. 76), and to the payment of such rewards or fees (§. 77, 78), and to the providing of engines by parishes (§. 80, 81), and to the payment of the expenses and rewards out of the poor-rates (§. 81), and to the exemption of watermen and others from impressment, or the liability to serve either as mariners or as soldiers (§. 82), and to the application of insurance-money on houses burnt (§. 83), and to the punishment of servants for carelessly firing a house (§. 84), and to the attendance of peace and parish officers at fires (§. 85), and to legal proceedings in respect of accidental fires (§. 86), and any other part of the said Act, so far as it is necessary for giving full effect to the respective purposes of such several unrepealed sections.
2d.—50 Geo. III. c. 75. (1810.)	An Act to amend an Act of the fourteenth year of his present Majesty for the better Regulation of Buildings and Party-walls; and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, by permitting John's Patent Tessera to be used in covering of Houses and Buildings within the places therein mentioned.	-- Wholly.
3d.—4 & 5 Will. IV. c. 35. (1834.)	An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimneys and Flues.	-- So much thereof as relates to the construction and regulation of chimneys and flues within the limits of this Act.
4th.—3 & 4 Vict. c. 85. (1840.)	An Act for the Regulation of Chimney Sweepers and Chimneys.	-- The same.

SCHEDULE (B.)—(*see* §. 5 & 7.)

Containing List of Buildings, of whatever Class, exempted from Ordinary Supervision, and placed under Special Supervision.

Part I.

Bridges, embankment walls, retaining walls, and wharf or quay walls:

And Her Majesty's Royal Palaces, and any building being in the possession of Her Majesty, Her heirs and successors, or employed for Her Majesty's use or service:

And any Common Gaols, Prisons, Houses of Correction, and Places of Confinemen under the inspection of the Inspectors of Prisons:

And the Mansion-house, Guildhall and Royal Exchange of the City of London:

And the offices and buildings of the Governor and Company of the Bank of England already erected, and which now form the edifice called "The Bank of England," and any offices and buildings hereafter to be erected for the use of the said Governor and Company, either on the site of or in addition to and in connexion with the said edifice:

L. & P. 39 & 40 Geo. 3, c.

And the Buildings of the British Museum already erected or to be erected for the like purposes:

And the erections and buildings authorized by an Act passed in the ninth year of the reign of his late Majesty King George the Fourth, for the purposes of a market in Covent Garden:

L. & P. 9 Geo. 4, c. 113.

And all other buildings exempted by any Act of Parliament from the operation of the Act passed in the fourteenth year of his late Majesty King George the Third, and by this Act repealed, except buildings included in the second part of this Schedule.

Part II.

And the warehouses of or belonging to the Saint Katharine Dock Company, and situate in the parish of Saint Botolph-without-Aldgate, and in the precinct of Saint Katharine, near the Tower of London, in the county of Middlesex:

L. & P. 6 Geo. 4, c. 105.

And the warehouses and buildings of or belonging to the London Dock Company, comprehended within the wall of the said Company, as set forth in an Act passed in the ninth year of the reign of his late Majesty King George the Fourth:

L. & P. 9 Geo. 4, c. 116, s. 99.

And the several warehouses and buildings of or belonging to the East and West India Dock Company, established by an Act made in the first year of the reign of Her present Majesty:

L. & P. 27 Geo. 3, c. 45., and 1 & 2 Vict., c. 9.

And the buildings erected or to be erected by the London and Birmingham Railway Company, established and incorporated by an Act passed in the third year of the reign of his late Majesty King William the Fourth, within and in connexion with the works of their Railway, by virtue of the several Acts relating thereto:

L. & P. 3 & 4 Will. 4, c. 36, and 5 & 6 Will. 4, c. 56, s. 126.

And the buildings and structures belonging to any other Dock or Railway authorized to be executed by any Act of Parliament.

SCHEDULE (C.)—Part I.—(*see* §. 5.)

RULES for determining the Classes and Rates to which Buildings are to be deemed to belong for the purposes of this Act, and the Thicknesses of the Walls of Buildings of such Rates.

Classes of Buildings.

For the purposes of this Act, all buildings of whatever kind, subject to the provisions thereof, are to be deemed to belong to one or other of the following Three Classes; that is to say,—

First Class.

If a building be built originally as a dwelling-house, or be occupied, or intended to be occupied as such,—then it is to be deemed to belong to the First or Dwelling-house Class.

SCHEDULE (C.)—PART I.—*continued.*

Second Class.

If a building be built originally as a warehouse, storehouse, granary, brewery, distillery, manufactory, workshop or stable, or be occupied or intended to be occupied as such, or for a similar purpose, —then it is to be deemed to belong to the SECOND or WAREHOUSE Class.

Third Class.

If a building be built originally as a church, chapel or other place of public worship, college, hall, hospital, theatre, public concert-room, public ball-room, public lecture-room, public exhibition-room, or occupied or intended to be occupied as such, or for a similar purpose, or otherwise used, or intended to be used, either temporarily or permanently, for the assemblage of persons in large numbers, whether for public worship, business, instruction, debate, diversion or resort,—then it is to be deemed to belong to the THIRD or PUBLIC-BUILDING Class.

Alteration of Class.

And if any room, whether constructed within any other building or not, and whether included in the aforesaid Classes or not, be used at any time for the public or general congregation of persons, —then the building containing such room is to be deemed a building of the THIRD or PUBLIC-BUILDING Class.

Or if a building originally built, or subsequently altered, so as to bring it within any one Class, be subsequently converted into or used as a building of another Class,—then it is to be deemed to belong to such other Class; and, as to it, all the conditions prescribed with regard to buildings of the same rate of such other Class must be fulfilled, as if it had been originally built of such Class; subject nevertheless to such modifications as shall be sanctioned by the Official Referees on a special supervision thereof.

Or if a building be used partly as a dwelling-house and partly for any purpose which would bring it within the second or warehouse class, then it is to be deemed to belong to the said second or warehouse class; and as to it, all the conditions prescribed with regard to buildings of the same rate of such class must be fulfilled, as if it had been originally built of such class, subject nevertheless to such modifications as shall be sanctioned by the Official Referees on a special supervision thereof.

Rates of Buildings.

And the buildings included in the said CLASSES are to be deemed to belong to the RATES of those Classes, according to the conditions of height, area and number of stories, set forth in the following Tables; which conditions are to be determined according to the following Rules:—

Rule for ascertaining Capacity.

The height of every building is to be ascertained by measuring from the surface of the lowest floor of the building, up to the underside of the ceiling of the topmost story at the highest part thereof, whether such story be within the roof or not:

And if there be no ceiling made or intended to be made to the topmost story,—then by measuring from the surface of such lowest floor of the building up to the underside of any tie-beam, collar-beam, or other substitute for a tie-beam to or within the roof of the building, and to the highest part of such roof, and the level of the under-side of such tie-beam, or such substitute for a tie-beam, is in such case to be taken to mean the ceiling of the topmost story.

And if there be no tie-beam, collar-beam, or other substitute for a tie-beam, to or within the roof of any building,—then up to a level three feet below the level of the underside of the ridge-piece or substitute for a ridge-piece to the roof of such building.

And the area of every building is to be determined by the number of squares contained in the surface of any floor which shall contain the greatest number of squares at or above the principal entrance to such building; including in such surface the area of all the external walls and such portions of the party-walls as belong to such building, but excluding from such surface the area of any attached building or office, area, balcony, or open portico.

Rule for ascertaining Number of Stories.

And the stories of every building are to be counted from the foundation, upwards.

And if the space in height between the top of the footings and the level of the lowest floor do not exceed five feet,—then the story nearest the foundation is to be considered the lowest or first story; but if such space exceed five feet,—then such space is to be considered to contain the lowest or first story; and in that case nine inches above the top of the footing is to be considered the level of the lowest floor.

Rule for ascertaining the Capacity of any Building of the Second Class.

And the capacity or cubical contents of any such building is to be ascertained by measuring according to the rule for ascertaining area, and from the surface of the lowest floor up to the under surface of the roof-covering of such building.

Rule for ascertaining Thickness of Walls.

And the thickness or width of every wall, and of the footing thereof, is to be ascertained by measuring only the thickness or width of which such walls or footings shall have been originally built.

SCHEDULE (C.)—PART II.—(*see* §. 5.)

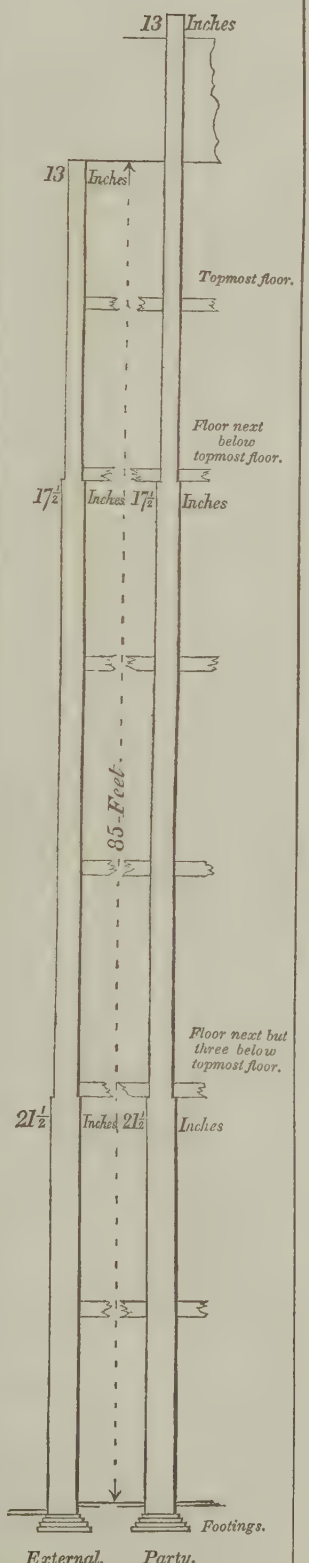
CONDITIONS for determining the RATES to which BUILDINGS of the FIRST or DWELLING-HOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL WALLS and of the PARTY-WALLS thereof.

In reference to HEIGHT.	In reference to AREA.	In reference to STORIES.	RATE of BUILDING.	REQUISITE THICKNESS of EXTERNAL WALLS of each Rate of the FIRST CLASS.	REQUISITE THICKNESS of PARTY-WALLS of each Rate of the FIRST CLASS.
1. If the building be in height more than 70 feet, and not more than 85 feet,	- - If the building cover more than 10 squares, and not more than 14 squares,	- - If the building contain SEVEN stories,	- - It is to be of the FIRST RATE of this class.	- - AND the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor, up to the under-side of the floor next below the topmost floor; and, at the least, 13 inches from the under-side of the floor next below the topmost floor up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the top-most floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor up to the under-side of the floor next below the topmost floor; and, at the least, 13 inches from the under-side of the floor next below the topmost floor, up to the top of the wall.
But if it be in height more than 85 feet,	- - Or if it cover more than 14 squares,	- - Or if it contain more than SEVEN stories,	- - It is to be an EXTRA FIRST RATE of this class.	- - And the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the underside of the floor next but two below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but two below the topmost floor up to the top of the wall.	- - And the thickness of the party walls must be, at the least, 21½ inches from the top of the footing up to the underside of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor up to the under-side of the topmost floor; and, at the least, 13 inches from the under-side of the topmost floor up to the top of the wall.
2. If more than 52 feet, and not more than 70 feet,	- - Or if it cover more than 6 squares and not more than 10 squares,	- - Or if it contain SIX stories,	- - It is to be of the SECOND RATE of this class.	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but one below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but one below the topmost floor, up to the top of the wall.
3. If more than 38 feet, and not more than 52 feet,	- - Or if it cover more than 4 squares, and not more than 6 squares,	- - Or if it contain FIVE stories,	- - It is to be of the THIRD RATE of this class.	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but two below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but two below the topmost floor up to the under-side of the topmost floor; and, at the least, 8½ inches from the under-side of the topmost floor up to the top of the wall.
4. If not more than 38 feet,	- - Or if it do not cover more than 4 squares,	- - Or if it do not contain more than FOUR stories,	- - It is to be of the FOURTH RATE of this class.	- - And the thickness of the external walls must be, at the least, 13 inches from the top of the footing up to the under-side of the floor next below the topmost floor; and at the least 8½ inches from the under-side of the floor next below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 13 inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least 8½ inches from the under-side of the floor next but one below the topmost floor up to the top of the wall.

TRANSVERSE SECTIONS OF WALLS OF THE FIRST, OR DWELLING-HOUSE, CLASS,

according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART II.

FIRST RATE.



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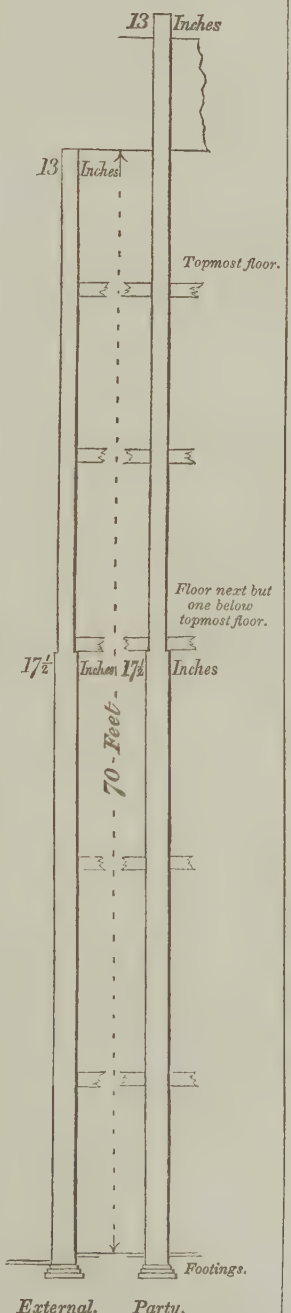

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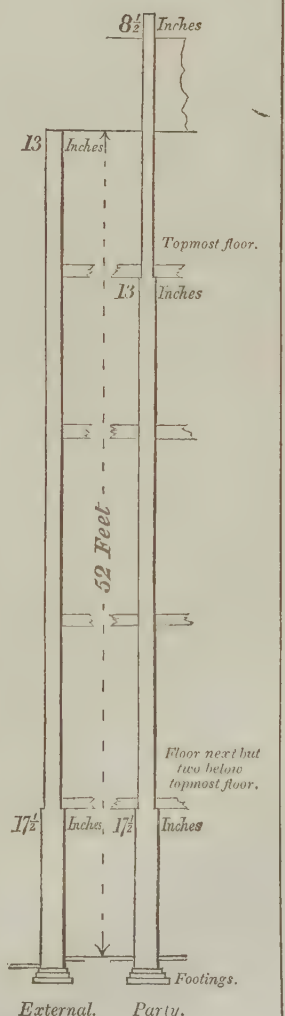

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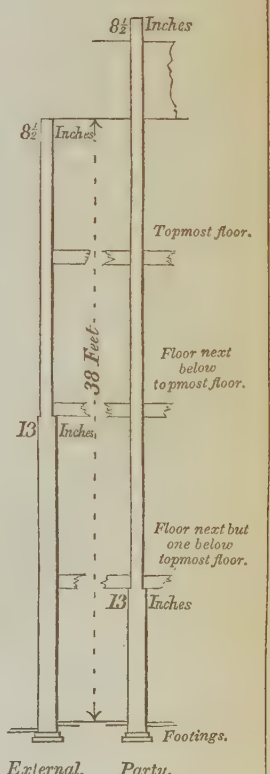
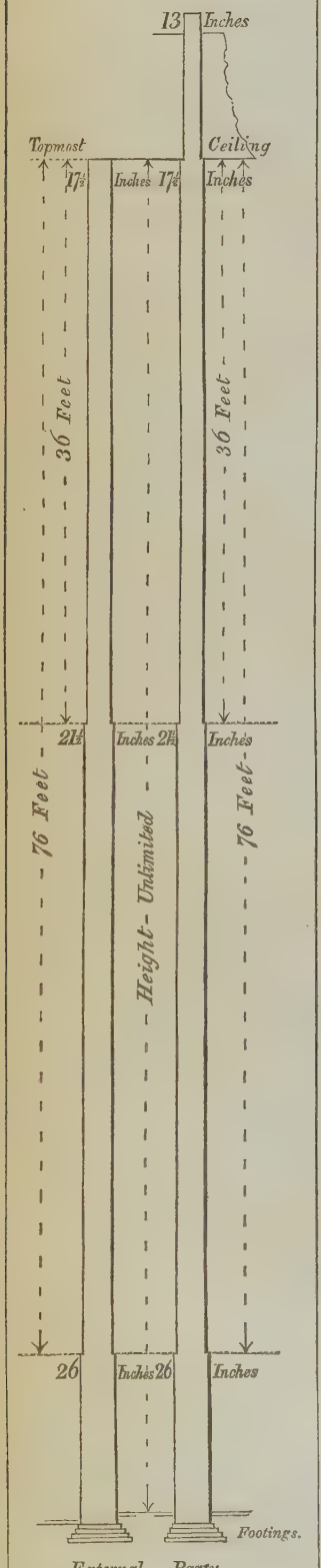


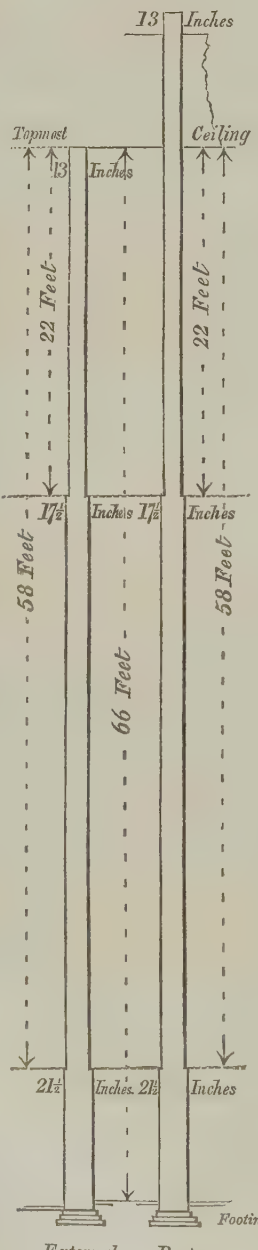
TRANSVERSE SECTIONS OF WALLS OF THE SECOND, OR WAREHOUSE, CLASS,

according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART III.

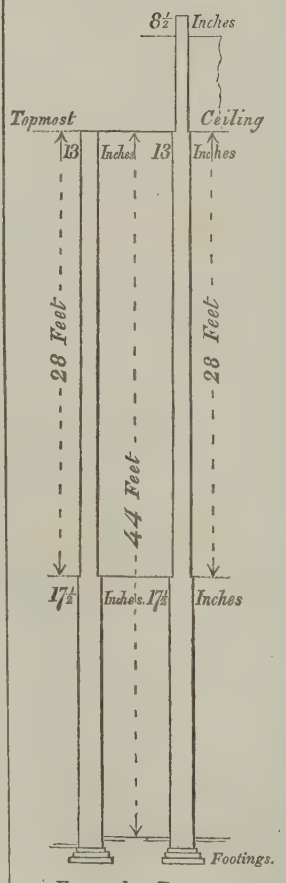
FIRST RATE.



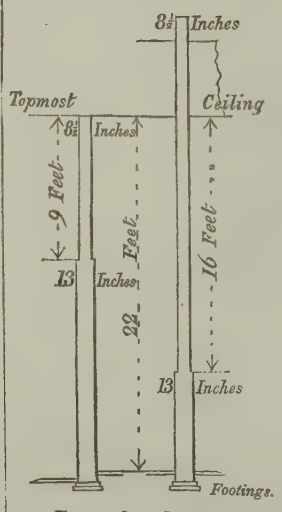
SECOND RATE.



THIRD RATE.



FOURTH RATE.



SCHEDULE (C.)—PART III.—(*see* §. 5.)

CONDITIONS for determining the RATES to which BUILDINGS of the SECOND or WAREHOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL WALLS and of the PARTY-WALLS thereof.

In reference to HEIGHT.	RATE of BUILDING.	REQUISITE THICKNESS of the EXTERNAL WALLS of each Rate of the SECOND CLASS.	REQUISITE THICKNESS of the PARTY-WALL of each Rate of the SECOND CLASS.
1. If the building be in height more than 66 feet,	- - It is to be of the FIRST RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 26 inches from the top of the footing up to the level of 76 feet below the topmost ceiling; and, at the least, 21½ inches from the level of 76 feet below the topmost ceiling up to the level of 36 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 36 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 26 inches from the top of the footing to the level of 76 feet below the topmost ceiling; and, at the least, 21½ inches from the level of 76 feet below the topmost ceiling up to the level of 36 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 36 feet below the topmost ceiling up to the level of the topmost ceiling; and, at the least, 13 inches from the level of the topmost ceiling up to the top of the wall.
2. If more than 44 feet, and not more than 66 feet,	- - It is to be the SECOND RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the level of 58 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 58 feet below the topmost ceiling up to the level of 22 feet below the topmost ceiling; and, at the least, 13 inches from the level of 22 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the level of 58 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 58 feet below the topmost ceiling up to the level of 22 feet below the topmost ceiling; and, at the least, 13 inches from the level of 22 feet below the topmost ceiling up to the top of the wall.
3. If more than 22 feet, and not more than 44 feet,	- - It is to be of the THIRD RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the level of 28 feet below the topmost ceiling; and, at the least, 13 inches from the level of 28 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the level of 28 feet below the topmost ceiling; and, at the least, 13 inches from the level of 28 feet below the topmost ceiling up to the level of the topmost ceiling; and, at the least, 8½ inches from the level of the topmost ceiling up to the top of the wall.
4. If not more than 22 feet,	- - It is to be of the FOURTH RATE of this Class,	- - AND the thickness of the external walls must be, at the least, 13 inches from the top of the footing up to the level of 9 feet below the topmost ceiling; and, at the least, 8½ inches from the level of 9 feet below the topmost ceiling up to the top of the wall.	- - AND the thickness of the party-walls must be, at the least, 13 inches from the top of the footing up to the level of 16 feet below the topmost ceiling; and, at the least, 8½ inches from the level of 16 feet below the topmost ceiling up to the top of the wall.

SCHEDULE (C.)—Part IV.

RULES concerning Buildings of the Second or Warehouse Class.

Warehouses, &c.

With regard to any building of the Second Class, hereafter built or rebuilt, in reference to the capacity or contents thereof within the same enclosing-walls;—

If such building contain more than 200,000 cubic feet (measured according to the rules for ascertaining height and area respectively), then such warehouses must be divided by party-walls, so as that there be not in any one part of such warehouse more than 200,000 cubic feet without party-walls.

Openings in Party-walls.

And with regard to buildings of the Second Class, in reference to openings through party-walls;—

Such openings must not be made wider than six feet, nor higher than eight feet, unless in each case, and upon special evidence of necessity for convenience or otherwise, the Official Referees shall previously authorize larger openings.

And the floor, and the jambs, and the head of every such opening must be composed of brick or stone work throughout the whole thickness of the wall.

And every such opening must have a strong wrought-iron door on each side of the party-wall, fitted and hung to such opening without wood work of any kind; and such doors must be not less than one-fourth of an inch thick in the panels thereof;

And each of such doors must be distant from the other not less than the full thickness of the party-wall.

Roofs.

And with regard to the Roofs of Buildings of the second class,—In order to prevent the formation of curbed roofs to such buildings, the plane of the surface of the roof of every such building must not incline from the external or party-walls upwards, at a greater angle than 40 degrees with the horizon.

SCHEDULE (C.)—Part V.

REQUISITES for determining the Rate to which any Building of the Third or Public Building Class is to be deemed to belong.

If any building of the Third or Public-Building Class correspond in form or structure or disposition with a dwelling-house,—then the Rate thereof is to be determined by the same rules as the Rates of the First or Dwelling-house Class; and the thicknesses of the external and party-walls, and the width of the footings thereof, are to be at the least four inches more than is hereby required for the external and party walls, and the footings thereof, of buildings, of the same Rate of the First or Dwelling-house Class, unless the Official Referees, on special supervision in each case, shall otherwise appoint.

But if it correspond in form or structure or disposition with a warehouse, or any building of the Second Class,—then the Rate thereof is to be determined by the same Rules as the Rates of the Second or Warehouse Class; and the thickness of the external and party walls, and the width of the footings thereof, are to be at the least four inches more than is hereby required for the external and party-walls, and the footings thereof, of buildings of the same Rate of the Second or Warehouse Class, unless the Official Referees, on special supervision in each case, shall otherwise appoint.

But if it do not correspond in form and structure, or in either, with buildings of the first or second classes, or any of them, then such building is to be subject, as to its walls or other construction, to the special approval of the Official Referees.

SCHEDULE (C.)—Part VI.

RULE concerning Fire-proof Accesses and Stairs to Buildings of the First and Third Classes.

With regard to buildings of the First Class, whereof the internal stairs are of stone or other incombustible substance,—Such stairs must be set in, or be fixed to, and be wholly upborne by, fire-proof constructions, and must be connected internally by landings, the floors of which are fire-proof, and wholly upborne and supported by fire-proof constructions; and must be connected with the exterior entrance by passages, the floors of which are fire-proof, and wholly upborne and supported by fire-proof constructions.

And with regard to buildings of the Third Class,—The floors of the halls, vestibules, lobbies, corridors, passages, and the stairs and landings, and all other ways of ingress and egress within the building, to and from all rooms or apartments used for public congregation, and to and from all galleries being part of, or being connected with, any such room or apartment, must be wholly supported, constructed, formed, made and finished fire-proof.

SCHEDULE (C.)—Part VII.

RULES concerning attached and detached and insulated Buildings, as to the Rates and Walls thereof.

Attached Buildings and Offices.

With regard to buildings or offices now built or hereafter to be built, (except greenhouses, vineries, aviaries, or such like buildings),—and that, whether such buildings or offices be attached to, or detached from, the buildings to which they belong;—

Every such building is to be deemed, in respect of the walls thereof, and all other requisites, as a building of the rate to which it would belong if it had been built separately.

Insulated Buildings.

And with regard to buildings of the First or Dwelling-house Class, and of the Second or Warehouse Class, which shall be insulated, so far as relates to the distance thereof from a public street or way,—

Every such building must be distant from any public street or alley one-third of the height thereof at the least; and if the building do not exceed 24 feet in height,—then it must be so distant at the least eight feet;

And with regard to such building, so far as relates to the distance thereof from any other building, or from ground not in the same possession or occupation therewith, or connected therewith only by a fence or fence-wall,—It must be distant from such other building or such other ground at the least 30 feet;—

And if such building be so distant from a public street or alley, and from any other building, or from ground not in the same possession or occupation therewith,—then such building is not to be liable, in respect of the dimensions and materials thereof, to the rules and directions of this Act.

Insulated Buildings afterwards divided.

Provided always, That if any such building be hereafter divided into two or more distinct buildings, and the several parts of such buildings so divided be not at the aforesaid distance from each other, and from other buildings and ground,—then such several parts must be separated from each other by such party-walls, as are herein prescribed for the rates to which such several parts, if adjoining, would belong.

And if such requisites be not observed,—then such several parts of such buildings in respect of which they are not so observed, shall be deemed a public nuisance, and as such be taken down, according to the provisions of this Act in that behalf.

SCHEDULE (C.)—PART VII.—*continued.*

Toll-houses, &c.

And with regard to certain buildings which shall be built for the purposes of trade or the collection of toll,—

If such buildings be situate fifteen feet at the least from any other building, and do not cover an area of more than one square and one half, and the height thereof do not exceed twelve feet from the ground to the highest point of the roof,—then every such building may be enclosed with any materials whatsoever; but the roof thereof must be covered as herein directed with regard to roofs, and the chimney and flue (if any) must be built as herein directed with regard to chimnies and flues.

SCHEDULE (D.)

PART I.—RULES concerning WALLS of whatever Kind.

Foundations.

With regard to the FOUNDATIONS of WALLS:—

Every external wall and every party-wall, and every party fence-wall, must be built upon a constructed footing, based upon solid ground, or upon other sufficient foundation.

Footings.

With regard to footings of walls, in reference to the materials thereof, to the width thereof, to the height thereof above the foundation, and to the depth below the surface,—

Materials.

1. In reference to the materials thereof:—

Every footing must be built, either of sound bricks, or of stone, or of such bricks and stone together, laid in and with mortar or cement in such manner as to produce solid work.

Width.

3. In reference to the width thereof:—

The bottom of the footing of every external wall and party-wall of the First Rate, must be at the least 17½ inches wider than the wall standing thereon; and the bottom of every footing of every external wall and party-wall of the Second and Third Rates must be at the least 13 inches wider than the wall standing thereon; and the bottom of the footing of every external wall and party-wall of the Fourth Rate and of every party fence-wall, must be at the least 8½ inches wider than the wall standing thereon.

The top of the footing of every party fence-wall and of every external wall and party-wall must be, at the least, four inches wider than the wall standing thereon:

And every footing so built narrower at the top than at the bottom must diminish equally and gradually on each side from the greater to the lesser width.

Height.

4. In reference to the height above the foundation:—

The footing of every external wall and party-wall of the First Rate must be at the least eleven inches high above the foundation.

The footing of every external wall and party-wall of the Second and Third Rates must be at the least eight inches high above the foundation.

The footing of every party fence-wall, and of every external wall and party-wall of the Fourth Rate, must be at the least five inches high above the foundation.

Depth below Ground.

5. In reference to the depth thereof below the surface of the lowest ground or area adjoining:—

The top of the footing of every party fence-wall and of every external wall and party-wall must be at the least three inches below such surface.

Depth below lowest Floor.

6. In reference to the depth thereof below the surface of the lowest floor adjoining, or intended to adjoin, thereto:—

The top of the footing of every external wall and party-wall must be at the least nine inches below such surface; and in any building of the First Class the surface of the earth, or of any paving on the outside, must not at any time be raised to within six inches of the surface of the lowest or first floor of such building.

Walls

SCHEDULE (D.)—PART I.—*continued.*

Walls generally.

With regard to every party fence-wall, and to the external walls and party-walls of every building hereafter built, and of every addition to such building, whether already built or hereafter built,—Every such wall must stand equally on each side within the top of its footing, unless the same be built against another wall, whether external or party.

Thicknesses of Enclosing Walls to Stories of Buildings of whatever Rate.

With regard to the enclosing walls to stories of buildings of the First and Second Classes,—Each of the enclosing walls of any such story, throughout the whole height thereof, from the top of the footing up to the top of such story, and with all the sets-off in addition required for such wall, to whatever Rate or whichever Class it may belong, and throughout at the least one-third of the whole length of such wall, in piers properly distributed, must be of the following dimensions, (unless cross or return-walls, coursed and bonded with the enclosing walls, shall, in the opinion of the Official Referees, upon special application to them in each particular case, give sufficient strength, with less thickness in such enclosing walls); that is to say,—

As to First Class buildings; if the story be in height more than 11 feet,—then the thickness of its enclosing walls must be at the least 13 inches.

Or if the story be in height more than 15 feet,—then the thickness of its enclosing walls must be at the least 17½ inches.

As to Second Class buildings; if the story be in height more than 9 feet,—then the thickness of its enclosing walls must be at the least 13 inches.

Or if the story be in height more than 12 feet,—then the thickness of its enclosing walls must be at the least 17½ inches.

Or if the story be in height more than 15 feet,—then the thickness of its enclosing walls must be at the least 21½ inches.

Or if the story be in height more than 18 feet,—then the thickness of its enclosing walls must be at the least 26 inches.

Nevertheless as to any external wall of any building of the First Class in which there are no apertures or recesses. If there be another external wall and a cross wall of not less than 8½ inches thick, coursing and bonding with such external wall, or if two such cross walls occur within a length of 24 feet of such wall, then such external wall may be built of the thickness of 13 inches, of any height not exceeding 18 feet, within any story, although the rate of the wall may require a greater thickness; but always upon condition that the substructure of such wall is 4 inches thicker at the least than such superstructure, and vertically under it.

And also if any such wall be abutted by cross or return walls within a length of 12 feet, and if not more than one aperture or recess occur within such length of 12 feet, and not more than one-half the quantity in length be taken out of such compartment of a wall by any such aperture or recess, then such external wall may be built of any thickness not less than 13 inches, notwithstanding the rate of such wal may require a greater thickness.

PART II.—*External Walls.*

Construction and Materials.

And with regard to the component materials of external walls to buildings of whatever class;—

Every such wall must be built of sound bricks or of stone, or of such bricks and stone together, laid in and with mortar or cement in such manner as to produce solid work; and every such wall must be carried up of its full thickness to the underside of the plate under the roof.

Nevertheless, in such walls, besides all requisite openings for doors and windows, recesses may be formed; so that the back thereof be of the thickness of eight inches and a half at the least; and so that the stability and sufficiency of the wall be not injuriously affected by making such recesses.

And with regard to other substances than the component materials of external walls,—There may be such wood and iron as shall be necessary.

And every plate, lintel, bond, corbel, being of wood, and every wood-brick laid into any external wall, and all ends of joists, of girders, and of the heads and sills of partitions running into any external wall, must be fixed at a distance from the external face of the wall of four inches at the least.

And the frames of doors and windows must be fixed in reveals at a distance from the external face of the wall of four inches at the least.

SCHEDULE (D.)—PART II.—*continued.*

And shop-fronts must be fixed in such manner as is herein specially directed.

And the tiers of door-cases to warehouses must be fixed in the openings left in such walls, at a distance from the external face of the wall of two inches at the least.

But no timber must be laid into any external wall in such manner, or of such length, as to render the part of the wall above it wholly, or in great part, dependent upon the wood for support, or so that any such wood might not be withdrawn without endangering the safety of the superincumbent structure, except in the case of brestsummers.

Height and Thickness of Parapets.

And with regard to external walls, in reference to the height and thickness of any parapet thereon:—

If an external wall adjoin a gutter,—then such external wall must be carried up, and remain one foot at the least above the highest part of such gutter.

And the thickness of an external wall, so carried up above the level of the underside of the gutter-plate, and forming a parapet, must be at the least,—

In every such wall of the extra First Rate of the First Class, and in every such wall of the First Rate of the Second Class, 13 inches thick; and—

In every other external wall of whatever rate or whichever class, 8 ½ inches thick.

Brestsummers.

With regard to every brestsummer fixed to carry any front wall of a building,—

If such brestsummer have a bearing at one end upon a party-wall,—then it must be laid upon a template or corbel of stone or iron, which template or corbel must be tailed through such wall at least two-thirds of the thickness thereof; and the end of such brestsummer must not be fixed into, and must not have its bearing solely upon such party-wall, but must be supported by a sufficient pier built of brick or stone, or by an iron column, or iron or timber story-post fixed on a solid foundation.

And if any such brestsummer have its bearing at each end upon a party-wall,—then it must be supported by at least two sufficient piers built of brick or stone, or by iron columns or by iron or timber story-posts fixed on solid foundations, and standing within and clear of the party-walls.

Or any such brestsummer may bear upon constructed returns in the direction of the length of the brestsummer of four inches at the least, coursed and bonded with the substance of the party-wall or party-walls; and such constructed returns must be increased one inch, at the least, for every six feet in length that the brestsummer may be otherwise unsupported.

And if the height of the under-side of any brestsummer, laid from party-wall to party-wall to carry any external wall, exceed 15 feet from the surface of the public foot-pavement in front of the building,—then there must be constructed returns in the direction of the length of the brestsummer from the inside of each party-wall of 8½ inches at the least, and at the least of the full thickness of such brestsummer; and every such return must be increased one inch at the least for every foot or part of a foot the brestsummer may be in height from the surface of the public foot-pavement more than 16 feet, whether the brestsummer be otherwise supported or not.

Materials to be used in Repairs.

And with regard to old external Walls or other external inclosures of any building already built, in reference to materials to be used in the repair thereof,—

If any such wall or inclosure be not built of the materials required by this Act for external walls or other external inclosures hereafter to be built,—then every part of such wall or other external inclosure, (except the inclosure of roofs, and the flats, gutters, dormers, turrets, lantern-lights and other erections thereon,) may be at all times thereafter repaired with materials of the same sort as those of which such external wall or inclosure has been already built.

Materials to be used in Rebuilding.

But if any such external wall or inclosure be at any time hereafter taken down or otherwise demolished for the height of one story, or for a space equal to one-fourth of the whole surface of such external wall,—then every part thereof, not built in the manner and of the several materials by this Act directed for external walls, must be taken down; and the same must be rebuilt in such manner, and of such materials, and in all respects as by this Act directed for external walls hereafter to be built, according to the class and rate of the building to which such external wall or inclosure shall belong.

External Wall used as a Party-wall.

And with regard to external Walls to be used as party-walls to any building adjoining thereto, (except an attached building or office as is hereinbefore described),—

If

SCHEDULE (D.)—PART II.—*continued.*

If the external wall of any building have not such footings, or be not of such heights and thicknesses, or be not built in such manner and of such materials as are herein directed for party-walls of buildings of the highest rate to which such wall shall adjoin,—then such external wall must not be used as a party-wall for any such building; but there must be a distinct external wall built as herein described for external walls, of the rate to which it shall belong.

But if such external wall to any building already built be at the least 13 inches in thickness, in every part, and be of sound and proper materials and in good condition,—then such wall may be used as a party-wall; but if the house of which such wall forms a part be rebuilt within five years from the time at which the wall shall have been so first used as a party-wall,—then such wall must become subject to the provisions of this Act in respect of party-walls, according to the class and rate to which the said wall did first belong.

PART III.—*Party-walls.*

Division of Buildings.

And with regard to walls used to divide single buildings into two or more,—

If it be intended to divide any building into two or more distinct parts,—then every wall for that purpose must be built as a party-wall, in the manner and of the materials, and of the several heights and thicknesses for party-walls of the highest rate of building to which such party-wall shall belong or adjoin, as prescribed in reference to the thicknesses of party-walls in Schedule (C.)

And if any building already built or which shall be hereafter built, be converted, used or occupied as two or more separate buildings, each having a separate entrance and staircase, then every such building shall be deemed to be two or more separate houses, and such separate houses must be divided from each other by a party-wall or party arch or arches, built in the manner and of thematerials required for party-walls, or for party-arches, for the class and rate to which the largest of the buildings so divided shall belong.

Site of Walls.

With regard to party-walls, in reference to the site thereof,—

If the buildings be of equal rate,—then such party-wall must be built on the line of junction of such buildings, One-half on the ground of the owner of one of such buildings, and One-half on the ground of the owner of the other of such buildings.

If such buildings be of different rates,—then such wall must be built on the line of junction thereof, as follows; that is to say, One-half of the thickness of the wall required for the building of the lower rate, on the ground of each of the adjoining owners; and the whole of the additional thickness of the wall required for the building of the higher rate, on the ground of the owner of such building of the higher rate;

And if such building of the lower rate be thereafter enlarged or altered, so as to become a building of a higher rate,—then the owner of such first-mentioned building of the higher rate, for the time being, shall be entitled to receive from the owner of such building of the lower rate, such sum of money as shall be a sufficient compensation for the ground occupied by that portion of the party-wall, which, according to the rate of the building enlarged, ought to have been built by its owner on his own ground, as well as the value of so much of the wall itself as may be more than the owner of such building of the lower rate had already paid for.

Construction and Materials.

And with regard to Party-walls, in reference to the component materials thereof,—

Every part of such party-wall must be built of sound bricks or of stone, or of such bricks and stone together, laid in and with mortar or cement, in such manner as to produce solid work.

And as to the wood work which it may be desired to connect with the party-walls of any building,—The bearing ends of wooden beams, brestsummers, girders, trimming joists, and the ends of partition heads and sills, and the bearing ends of the main timbers of a roof, and wood bricks, may be laid into the substance of a party-wall; but no such beam, brestsummer, girder, joist, partition-head or sill, nor any part of a roof being wood, nor any wood bricks, must be laid or placed within four inches of the centre of any party-wall;—and no other wood-work of any kind must be laid into, placed upon, or be run or driven into any part of the substance of any party-wall:—

But if the ends of timbers be carried on iron shoes or stone corbels, then such iron shoes or stone corbels must be built into the wall at the least one-half of the thickness of such wall.

And the top of every such party wall must be finished with one course of sound stock-bricks, set on edge with good cement, or by a coping of any other properly secured and sufficient waterproof and fireproof covering.

SCHEDULE (D.)—PART III.—*continued.*

Height of Party-walls above Roof.

And with regard to Party-walls, in reference to the height thereof,—

If a party-wall adjoin to any roof,—then such party-wall must be carried up and remain one foot six inches at the least above the part where the party-wall and roof adjoin, measured at a right angle with the back of the rafters of such roof.

And if any party-wall in any building of the First Class adjoin a gutter,—then such party-wall must be carried up, and remain two feet at the least above the highest part of any such gutter.

And if any party-wall in any building of the Second Class adjoin a gutter,—then such party-wall must be carried up, and remain three feet at the least above the highest part of any such gutter.

If there be fixed within five feet of a party-wall, upon the flat or roof of the building, any turret, dormer, lantern-light or other erection, of combustible materials,—then every such party-wall must be carried up next to every such turret, dormer, lantern-light or other erection, and must extend one foot six inches higher, and one foot six inches wider than any such erection on each side thereof.

Openings in Party-walls.

And for the purpose of regulating the making of Openings through any party-wall between one dwelling-house and another, whereby two or more dwelling houses shall be united.

With regard to any dwelling-houses of any rate, such dwelling-houses may be united by means of openings in the party-walls,—

But with regard to any dwelling-houses which when so united will contain more than fourteen squares,—

If such dwelling-houses shall be and continue to be in the same occupation, then, upon its being declared by the Official Referees that in their opinion the stability and security from fire of any or either of such dwelling-houses will not be endangered by making such openings, they may be made accordingly.

Recesses and Chases.

And further, with regard to any party-wall, as to Recesses, and as to Chases in such wall,—

In every story recesses may be formed, but only with the consent and authority of the Official Referees first had and obtained, and so that such recesses be arched over, and so that the back of any such recess be not nearer than seven inches to the centre of the party-wall in the first or lowest story, nor nearer than four inches to the centre of the party-wall in any other story, and so that the stability and sufficiency of such party-wall be not injuriously affected thereby.

If any Chases be required for the insertion of ends of walls, of piers, of chimney-jambs, of withes of flues, of metal pipes, or of iron story-posts,—then every Chase for any such purpose must not be left or be cut nearer than four inches at the least to the centre of a party-wall, nor within a distance of nine inches at the least from any front or back wall, and no two such Chases must be made within a distance of seven feet six inches at the least from each other on the same side of a wall, and no such Chase must be formed wider than nine inches.

PART IV.—*Party-walls and Party-arches between intermixed Property.*

And with regard to any building already built, having rooms or floors, the property of different owners, which lie intermixed, without being separated by any party-wall or party-arch or stone floor,—

If any such building be altogether rebuilt, or to the extent of one-fourth of the cubical contents thereof,—then such intermixed properties must be separated from each other as follows:

If they adjoin vertically,—then so far as they adjoin vertically, they must be separated by a party-wall.

If they adjoin horizontally,—then so far as they adjoin horizontally, they must be separated either by a floor formed of brick, tile, stone or other proper and sufficient incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or tiles, or by a party-arch or party-arches of brick or stone of the thickness of nine inches at the least, if the span do not exceed nine feet, and thirteen inches at the least if the span exceed nine feet; and such floor or party-arch or party-arches must be built with sufficient abutments and in a sufficient manner.

SCHEDULE (D.)—*continued.*

PART V.—*Buildings over Public Ways.*

And with regard to buildings extending over any public way, as to the part thereof which extends over such way, so far as relates to the separation of such part from such public way,—

If such part be rebuilt,—then it must be separated from such public way, either by a floor or arch formed of brick or stone, or of other incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or by an arch formed of brick or of stone; which arch, if the span thereof do not exceed nine feet, must be of the thickness of nine inches at the least, and which if the span exceed nine feet, must be of the thickness of thirteen inches at the least.

And such floor or arch, with its abutments, must be built in such manner as shall be approved of by the surveyor; but there must not be formed over any public way a ceiling of lath and plaster, or of lath and cement.

SCHEDULE (E.)—(*see* §. 5.)

RULES concerning external PROJECTIONS.

Porticoes projected over Public Ways.

And with regard to the portico or porticoes of any church, chapel, theatre or other public building of the Third Class,—

If the building of the same shall have been previously sanctioned by the official referees, by writing under their hands, and if objection be not made by any party interested within one month thereafter, and if, upon such objection or appeal, Her Majesty's Principal Secretary of State acting for the Home Department, do not decide in favour thereof,—then such projections may be built over the foot pavement of any street or alley which shall be fifty feet wide at the least (notwithstanding any Act heretofore passed to the contrary).

Projections from Face-walls, &c.

And further, with regard to buildings hereafter to be built or rebuilt, in reference to projections therefrom,—

As to copings, parapets, cornices to overhanging roofs, blocking-courses, cornices, piers, columns, pilasters, entablatures, facias, door and window dressings, or other architectural decorations, forming part of an external wall,—All such may project beyond the general line of fronts in any street or alley, but they must be built of the same materials as are by this Act directed to be used for building the external walls to which such projections belong, or of such other proper and sufficient materials as the Official Referees may approve and permit.

And as to all balconies, verandahs, porches, porticoes, shop-fronts, open inclosures of open areas, and steps, and water-pipes, and to all other projections from external walls not forming part thereof,—Every such projection (except such part of shop-fronts, and the frames and sashes of the windows and doors, in reference to the necessary wood-work thereof), may stand beyond the general line of fronts in any street or alley, but they must be built of brick, tile, stone, artificial stone, slate, cement or metal, or other proper and sufficient fire-proof materials; and they must be so built as not to overhang the ground belonging to any other owner, and so as to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto, on any side thereof.

Projections from Walls of Buildings over Public Ways.

And with regard to all buildings hereafter to be built or rebuilt, in reference to projections from the walls of such buildings, including steps, cellar-doors and area inclosures,—The walls of all such buildings must be set back, so that all projections therefrom, and also all steps, cellar-doors and area inclosures, shall only overhang or occupy the ground of the owner of such building, without overhanging or encroaching upon any public way.

Projected Buildings beyond the general Line of Buildings and from other external Walls.

And with regard to buildings already built or hereafter to be rebuilt, as to bow windows or other projections of any kind,—

Such projections must neither be built with, nor be added to any building on any face of an external wall thereof, so as to extend beyond the general line of the fronts of the houses

SCHEDULE (E.)—*continued.*

(which general line may be determined by the surveyor), except so far as is hereinbefore provided with regard to porticoes projected over public ways, and with regard to projections from face-walls and shop-fronts; nor so as to overhang the ground belonging to any other owner; nor so as to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto, on any side thereof.

Projections from insulated Buildings.

PROVIDED ALWAYS, with regard to any insulated buildings, that if the projections be at the least 8 feet from any public way, and if they be at least 20 feet from any other building not in the same occupation,—then such projections are excepted from the rules and directions of this Act.

Wooden Shop Fronts and Shutters.

And with regard to shop-fronts and their entablatures, their shutters and pilasters and stall-boards, made of wood,—

If the street or alley in which such front is situate be of less width than 30 feet,—then no part of such shop-front must be higher, in any part thereof, than 15 feet; nor must any part, except the cornice, project from the face of a wall, whether there be an area or not, more than five inches; nor must the cornice project therefrom more than 13 inches.

If the street or alley be of a greater width than 30 feet,—then no part of such shop-front, except the cornice, must project from the face of a wall, whether there be an area or not, more than 10 inches; nor must the cornice project therefrom more than 18 inches.

And the width of such street or alley must be ascertained by measuring the same, as hereinafter directed with regard to the widths of streets and alleys.

And the wood-work of any shop-front must not be fixed nearer than $4\frac{1}{2}$ inches from the centre line of a party-wall.

And with regard to such wood-work; If it be put up at such distance of $4\frac{1}{2}$ inches,—then a pier or corbel built of stone or of brick or other incombustible material, and of the width of $4\frac{1}{2}$ inches at the least, must be fixed in the line of the party-wall, so as to be as high as such wood-work, and so as to project one inch at the least in front of the face thereof.

And the height of every shop-front must be ascertained by measuring from the level of the public foot-pavement in front of the building.

And every sign or notice-board fixed against or upon any part of any house, or other building standing close to any public way, must be so fixed that the top shall be within 18 feet at the most above the level of such public way.

SCHEDULE (F.)—(*see* §. 5.)

RULES concerning CHIMNEYS hereafter built or rebuilt.

Construction.

With regard to chimneys and chimney stacks, except angle chimneys, in reference to the construction thereof,—

The foundations and footings of every such chimney and chimney stack must be built similar to those of the wall in or adjoining to which it shall be.

And every such chimney and chimney stack must be built from the foundation to the top thereof without any corbelling over, whereby any upper part of the brick-work of such chimney or chimney-stack shall overhang any lower part of the brickwork on the front thereof.

Nevertheless, with regard to buildings of the First Rate and extra First Rate,—The jambs, breast and flue of any single chimney may be built upon brick, stone, or iron corbels, above the ceiling of the third story of every such building.

And with regard to buildings of the second and third rates,—The jambs, breast and flue in any single chimney may be built upon brick, stone or iron corbels, above the ceiling of the second story of every such building.

But the projection both of such jambs and breast, must not in any case exceed nine inches before the face of the wall or stack to which the same shall adjoin.

And with regard to angle chimneys,—Such chimneys may be built in the internal angle of any building, so that the width of the breast thereof do not exceed five feet; and so that it be properly supported on iron-girders, with brick-arches, or on strong stone-landings, not less than four inches thick, and tailed at least nine inches into each of the two walls forming such angle.

Dimensions

SCHEDULE (F.)—*continued.*

Dimensions and Materials.

And with regard to chimneys, in reference to the dimensions of the jambs thereof,—

The jambs of every chimney must not be less than 8½ inches wide on each side of such opening.

And with regard to chimneys and flues, in reference to the thickness of the brick-work thereof,—

The breast of every chimney, and the front, back, withe or partition, of every flue, must be at the least 4 inches in thickness of sound bricks, properly bonded, and the joints of the work must be filled in with good mortar or cement, and all the inside thereof, and also the outside or face thereof, next the interior of any building must be rendered or pargetted.

And with regard to flues, in reference to the dimensions thereof—No flue may be used for a smoke flue which is of less internal diameter in any section than 8½ inches.

Timber or Wood-work.

And with regard to chimneys, in reference to timber,—

No timber must be placed over any opening for supporting the breast of any chimney; but there must be an arch of brick or stone over the opening of every such chimney, to support the breast thereof; and an iron bar or bars must be built into the jambs, at the least nine inches on each side, to tie in the abutments whenever the breast projects more than 4½ inches from the face of the wall, and the jamb on either side is of less width than two-thirds of the opening.

And no timber or wood-work must be placed or laid in any wall under any chimney opening within 18 inches at the least of the surface of the hearth to the fire-place of such chimney opening.

And as to any timber or wood-work, in reference to the fixing thereof in or against any wall containing flues or against any chimney-breast or chimney-jamb,—

If timber or wood work be affixed to the front of any jamb or mantle, or to the front or back of any chimney or flue,—then it must be fixed by iron nails or holdfasts, or other iron fastenings, which must not be or be driven nearer than four inches to the inside of any flue or to the opening of any chimney, and such timber or wood-work must not be nearer than nine inches to the opening of any chimney.

And no timber must be laid or placed within three inches of the face or breast, back, side or jamb of any flue, or of any chimney opening where the substance of brick-work or stone-work shall be less than 8½ inches thick, nor must any flooring-board, batten, ground, skirting, or other lining or fitting, of wood, nor any wood staircase, nor any thing else of wood, be fixed or placed against, or near to the face or breast, back, side or jamb, of any flue, fire-place or chimney opening, unless and until the brick or stone-work constituting the same shall have been thoroughly and efficiently rendered or pargetted with proper mortar or stucco, and such rendering must be in every case in addition to four inches at least of solid fire-proof structure.

Slabs and Hearths.

And a slab or slabs of brick, tile, stone, slate, marble or other proper and sufficient substance, at the least 12 inches longer than the opening of every chimney when finished, and at the least 18 inches in front of the arch over the same, must be laid before the opening of every chimney.

And in every floor, except the lowest floor, such slab or slabs must be laid wholly upon stone or iron bearers, or upon brick trimmers; but in the lowest floor, they may be laid on a brick fender, or bedded on the solid ground.

And the hearth of every chimney must be laid and bedded wholly on brick or stone, or other incombustible substance, which must be solid for a thickness of nine inches at the least, beneath the surface of any such hearth.

Backs.

And as to the back of every chimney-opening of every building (except backs of chimneys in the lowest story of buildings of the Fourth Rate),—Every such back, in the lowest story, must be at the least 13 inches thick from the hearth to the height of 12 inches above the mantle, and in every other story, at the least 8½ inches thick up to the same relative height.

And as to the backs of chimney-openings in the lowest story of buildings of the Fourth Rate,—Such backs must be at the least 8½ inches thick, to the height of 12 inches at the least above the level of the mantle:

Provided always, That if the chimney be built in any wall, not being a party wall,—then the back of every such chimney-opening may be 4½ inches less than the several thicknesses above described.

Chimney-openings back to back.

And as to backs of all such chimney-openings,—If two chimneys be built back to back,—then the thickness between the same must be at the least of the thickness hereinbefore described for the back of one chimney-opening.

SCHEDULE (F.)—*continued.*

Angles of Flues.

And as to all flues, in reference to the angles thereof,—

If any flue be built with sufficient openings in it of not less size than nine inches square, and proper close iron doors and frames inserted in such openings, so that every part of such flue may be swept by machinery,—then every angle in such flue may be of any degree.

But if it be not so built,—then every such angle must be 135 degrees at the least.

And every salient or projecting angle within a flue must be rounded off four inches at the least, and protected by a rounded stone, or iron, bar.

Close Fires.

And as to every oven, furnace, cokel or close fire, used for the purpose of trade or manufacture,—It must be six inches at the least distant from any party-wall, and must not be upon nor within a distance of 18 inches of any timber or wood work.

And the floor on or above which such oven, furnace, cokel or close fire shall be built or fixed, must be formed and paved under, and for a distance of two feet all round, the same, with stone, brick, tile or slate at the least two inches thick, or other proper incombustible and non-conducting materials.

Chimney Shafts.

And as to chimney shafts or flues,—

Every chimney-shaft or flue hereafter built, raised or repaired, must be carried up in brick or stone work all round, at least four inches thick, to a height of not less than three feet above the highest part of such portion of the roof, flat or gutter adjoining thereto, measured at the point of junction.

And as to any chimney-shaft, (except that of a steam-engine, brewery, distillery or manufactory)—The brick or stone work of such shaft or flue must not be built higher than eight feet above the slope, flat, or gutter, of the roof which it adjoins, measured from the highest point of junction, unless such chimney-shaft be built of increased thickness, or be built with, and bonded to, another chimney-shaft, or be otherwise rendered secure.

And as to the chimney shaft for the boiler-furnaces of any steam-engine, or for any brewery, distillery or manufactory,—Such shaft may be erected of any height, so that it be built in such manner, and of such strength and dimensions, as shall be satisfactory to the official referees, upon special application in each case.

Chimney-Pots, Tubes, &c.

And as to earthen or metal chimney-pots, tubes, funnels, or cowls of any description whatsoever,—If such pot, tube, funnel or cowl, be higher than four feet above the brick or stone-work of the flue on which the same shall be placed, then it must be fixed two feet at the least into the brick or stone-work of the flue on which it shall be placed.

Smoke Pipes.

And as to any metal or other pipe or funnel for conveying smoke, heated air, or steam, in reference to the position thereof,—Such pipe or funnel must not be fixed against or in front of any face of any building in any street or alley, nor on the inside of any building nearer than 14 inches to any timber or other combustible material.

Cuttings into Chimneys.

And as to every chimney-shaft, jamb, breast or flue already built, or which shall be hereafter built, in reference to cutting the same,—No such erection shall be cut into for any other purpose than the repair thereof, or for the formation of soot-doors, or for letting in, removing, or altering, stove-pipes or smoke-jacks, except as directed for building an external wall against an old sound party-wall.

SCHEDULE (G.)—(*see* §. 5.)

RULES concerning Roof Coverings.

Materials.

With regard to Roof coverings, in reference to the materials thereof;—

If the external parts of any roof, flat, or gutter, of any building, or of any projection therefrom, and of any turret, dormer, lantern-light and other erection on the roof or flat of any building,

SCHEDULE (G.)—*continued.*

building, be hereafter built or rebuilt, stripped, ripped or uncovered,—then every such part (except the door-frames and doors, window-frames and sashes of such turrets, dormers, lantern-lights or other erections) must be covered with slates, tiles, metal, glass, artificial stone or cement, and such excepted parts may be made of such wood as shall be necessary.

Rain Water Pipes.

And with regard to the roof, flat and gutter of any building, and of any projection therefrom, and also balconies, verandahs and shop-fronts,—They must be so arranged and constructed, and so supplied with gutters and pipes, as to prevent the water therefrom dropping on to, or running over, any public way.

SCHEDULE (H.)—(*see* §. 5 & 51.)

RULES concerning DRAINS to Buildings hereafter built.

Drains into Sewers.

WITH regard to the Drains of buildings of any class, and of every addition thereto;—

Before the several walls of any such building shall have been built to the height of 10 feet from their foundations the drains thereof must have been properly built and made good, (that is to say) if there be within 100 feet from any front of the building, or from the enclosure about the building, a common sewer into which it is lawful and practicable to drain,—then into such common sewer; and if there be not in such situation and within such distance any such common sewer,—then to the best outlet that can be obtained, so as to render, in either case, such drains available for the drainage of the lowest floor of such building, or addition thereto, and also of its areas, water-closets, privies and offices (if any).

And the inside of the main drains under and from every building for carrying off soil must be in transverse section, at the least equal to a circular area at least nine inches in diameter.

And every such drain must be laid to a fall or current of, at the least, half an inch to ten feet, and so as that the whole of every such drain within the walls of such building, shall be wholly covered over under the lowest floor, and independently thereof.

And every such drain within the walls of such building must be built and covered over with brick, stone or slate, and so as to render the drain air-tight.

And every part of such drain inside and outside the walls of every building must be built of brick, tile, stone or slate, set in mortar or cement.

Cesspools and Privies.

And with regard to Cesspools and Privies;—

If there be a common sewer within 50 feet from any front of, or from the enclosure about, any house or other building,—then a cesspool must not be made for the reception of drainage from such house or other building, unless there be, or shall be built, a good and sufficient drain from such cesspool to such common sewer.

And if any cesspool be built under a house or other building,—then such cesspool must be built air-tight.

And every privy built in the yard or area of any building, or under any street or alley, must have a door, and be otherwise properly inclosed, screened and fenced from public view.

SCHEDULE (I.)—(*see* §. 5 & 52.)

RULES concerning STREETS and ALLEYS hereafter formed.

Width.

WITH regard to every such Street or Alley, hereafter to be formed, in reference to the width thereof;—Every Street or Alley must be of, at the least, the following width, from front to front, in every part thereof respectively; that is to say,—

Every street (excepting any mews not intended to be used as a public thoroughfare), must be of the width of 40 feet at the least; but if the buildings fronting any street be more than 40 feet high from the level of the street,—then such street must be of a width equal, at the least, to the height of the buildings above such level.

Every alley and every mews must be of the width of 20 feet at the least; but if the buildings fronting any alley, or to any mews, be more than 20 feet high from the level of the alley or mews,—then such alley or mews must be of a width equal, at the least, to the height of the buildings above such leve .

SCHEDULE (I.)—*continued.*

Entrances to Alleys.

And with regard to every such Alley in reference to the entrance thereof,—Every Alley must have two entrances thereto, each being, at the least, of the full width of the Alley, and one of the two, at the least, open from the ground upwards.

Measurement of Width.

And with regard both to such Streets and Alleys,—The aforesaid width is to be ascertained by measuring (at right angles to the course thereof), from front to front of the buildings on each side of such Street or Alley.

SCHEDULE (K.)—(*see* §. 5 & 53.)

RULES concerning DWELLING-HOUSES hereafter built or rebuilt, with regard to Back-yards and Areas, and Rooms under-ground, and in the Roof.

Back-yards.

WITH regard to back-yards or open spaces attached to dwelling-houses;—

Every house, hereafter built or rebuilt, must have an inclosed back-yard or open space of, at the least, one square, exclusive of any building thereon, unless all the rooms of such house can be lighted and ventilated from the street, or from an area of the extent of, at the least, three-quarters of a square, into which the owner of the house to be rebuilt is entitled to open windows for every room adjoining thereto.

And if any house already built, be hereafter rebuilt,—then, unless all the rooms of such house can be lighted and ventilated from the street, or from an area of the extent of, at the least, three-quarters of a square, into which the owner of the house to be rebuilt is entitled to open windows for every room adjoining thereto, there must be, above the level of the floor of the third story, an open space of at least three-quarters of a square.

And with regard to every building of the first class,—

Every such building must be built with some roadway, either to it, or to the enclosure about it, of such width as will admit to one of its fronts of the access of a scavenger's cart, of the ordinary size of such carts.

Lowermost Rooms.

And with regard to the lowermost rooms of houses being rooms of which the surface of the floor is more than three feet below the surface of the footway of the nearest street or alley, and to cellars of buildings hereafter to be built or rebuilt;—

If any such room or cellar be used or intended to be used as a separate dwelling,—then the floor thereof must not be below the surface or level of the ground immediately adjoining thereto, unless it have an area, fire-place and window as required for rooms and cellars of existing buildings let separately and used as a separate dwelling, and unless it be properly drained.

And with regard to every such lowermost room or cellar in any existing building used or intended to be used as a separate dwelling;—

There must be an area not less than three feet wide in every part, from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back or external side thereof, and extending the full length of such side.

And such area, to the extent of at least five feet long and two feet six inches wide, must be in front of the window of such room or cellar, and must be open, or covered only with open iron gratings.

And there must be made for every such room or cellar an open fire-place, with proper flue therefrom.

And there must be a window-opening of, at the least, nine superficial feet in area; which window-opening must be fitted with a frame filled in with glazed sashes, of which, at the least, four-and-a-half superficial feet must be made to open for ventilation.

Attic Rooms.

And with regard to rooms in the roof of any building hereafter built or rebuilt, in reference to the number of floors of rooms in the roof, and to the height of such rooms;—There must not be more than one floor of such rooms, and such rooms must not be of a less height than seven feet, except the sloping part, if any, of such roof, which sloping part must not begin at less than three feet six inches above the floor, nor extend more than three feet six inches on the ceiling of such room.

Rooms in other Parts.

And with regard to rooms in other parts of the building, in reference to the height thereof,—Every room used or intended to be used as a separate dwelling must be of, at the least, the height of seven feet from the floor to the ceiling.

SCHEDULE (L.)

LIST of FEES payable to SURVEYORS under this Act.

Fees for New Buildings.

	Dwelling-House Class.	Warehouse Class.	Public Buildings Class.
FOR any building erected on old or new foundations, as follows:—	£. s. d.	£. s. d.	£. s. d.
If the building be of the 1st rate - -	3 10 –	3 10 –	3 10 –
Ditto - - extra 1st ditto - -	5 5 –	- - -	5 5 –
Ditto - - - - - 2d ditto - -	3 3 –	3 3 –	3 3 –
Ditto - - - - - 3d ditto - -	2 10 –	2 10 –	2 10 –
If the building be of the 4th rate, and contain more than two stories - - - -	2 2 –	2 2 –	2 2 –
If the building be of the 4th rate, and do not contain more than two stories - - -	1 10 –	2 2 –	1 10 –
AND with regard to buildings of the warehouse class, a further fee to be paid in respect of any additional 200,000 cubic feet, or portion of 200,000 cubic feet, in any such building, beyond the first 200,000 cubic feet - -	- - -	- - equal to one-half of the above fees respectively.	
And for inspecting and reporting to the Official Referees (s. 24) on party-walls and intermixed buildings,—			
If the building be of the 1st rate - -	3 10 –	3 10 –	3 10 –
Ditto - - extra 1st ditto - -	5 5 –	- - -	5 5 –
Ditto - - - - - 2d ditto - -	3 3 –	3 3 –	3 3 –
Ditto - - - - - 3d ditto - -	2 10 –	2 10 –	2 10 –
If the building be of the 4th rate, and contain more than two stories - - - -	2 2 –	2 2 –	2 2 –
If the building be of the 4th rate, and do not contain more than two stories - - -	1 10 –	2 2 –	1 10 –
For every insulated building - - - -	1 1 –	1 1 –	1 1 –

For every detached building built for the purposes of trade or collection of toll - - - - - - - - - - - - - - - 10*s.* 6*d.*

For every attached or detached building, distinctly rated (except any such attached or detached building, built at the same time as the building to which it belongs, and carried up and covered in within 21 days after such building shall have been covered in within the meaning of this Act), such fee as is hereby imposed in respect of additions to, or alterations of, buildings of the rate to which such attached or detached buildings shall belong.

Fee for Additions or Alterations.

For every addition or alteration made to any building (after the roof thereof shall have been covered in), which shall involve the execution of works subject to the regulations of this Act, the following fees; that is to say,—

	£. s. d.
If the building be of the 1st rate - - - - -	1 15 –
Ditto - - extra 1st ditto - - - - -	2 10 –
Ditto - - - - - 2d ditto - - - - -	1 10 –
Ditto - - - - - 3d ditto - - - - -	1 5 –
If the building be of the 4th rate, and contain more than two stories - - - - - - - - -	– 15 –
If the building be of the 4th rate, and do not contain more than two stories - - - - - - - - -	– 10 –

And with regard to buildings of the warehouse class, a further fee, equal to one-half of the above fees respectively, to be paid in respect of every additional 200,000 cubic feet, or any portion of 200,000 cubic feet, in any such building beyond the first 200,000 cubic feet.

SCHEDULE (L.)—*continued.*

Fees for special Duties.

For the following special duties performed by any Surveyor, according to the enactments of this Act, where such duties shall not be performed incidentally to the building or rebuilding of, or adding to or altering, any building in respect of which any other fees may be payable; that is to say,—

For attending to the cutting away of chimney-breasts for external walls—

	£.	s.	d.
If the building be of the 1st rate - - - - -	3	3	–
Ditto - - extra 1st ditto - - - - -	3	3	–
Ditto - - - - 2d ditto - - - - -	2	2	–
Ditto - - - - 3d ditto - - - - -			
If the building be of the 4th rate, and contain more than two stories - - - - - - - - - -	1	1	–
If the building be of the 4th rate, and do not contain more than two stories - - - - - - - - -	–	10	6
For condemning party fence-walls - - - - -	–	10	6
For the inspection and removal of projections and ruinous buildings - - - - - - - - - -	–	10	–
For surveying party-walls not kept in repair, and consenting to notice of repair being served - - - - -	–	10	–
For inspecting arches or stone floors over public ways - -	–	10	–
For inspecting formation of openings in party-walls - -	–	10	–

Fees for special Services not expressly provided for.

For any service performed by any Surveyor which is required by this Act, but not comprehended under any of the foregoing heads,—

Such fee, not exceeding 2*l.*, as the Official Referees shall by writing under their hands order and appoint, with the consent of the Commissioners of Works and Buildings.

SCHEDULE

SCHEDULE (M.)

Metropolitan Buildings Act.

SUMMARY of PROCEEDINGS to be taken or observed before and after NOTICES in relation to Buildings.

Section of the Act.	Stages of Proceeding.	Steps to be taken.	By whom taken.	With reference to whom taken.	Form of Notice to be given.	Place of Notice.	Subsequent Proceedings.
	WORKS GENERALLY.						
§. 13.	Before commencing the operations specified in this section.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 1. -	At the District Surveyor's office	£. 20 penalty for neglect. Existing buildings altered, &c. without notice, to be abated as a nuisance.
§. 13.	Before resuming operations, after being suspended for a period exceeding three months.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 2. -	At the District Surveyor's office	£. 20 penalty for neglect.
§. 13.	On change of Architect, Master Builder, or other Superintendent.	Two days' notice to be given -	By the Builder. *See Definition*, §. 13.	To the District Surveyor -	*See* Form No. 3. -	At the District Surveyor's office	£. 20 penalty for neglect.
§. 14.	On the occurrence of any irregularity in building operations.	48 hours' notice to be given -	By the District Surveyor -	To the Builder - - -	*See* Form No. 4. -	At the Builder's office, or place of building or of alteration.	Proceedings by Surveyor or Official Referees.
§. 37.	As to openings hereafter made in external walls abutting on adjoining ground or buildings.	Notice to stop up within one month.	By adjoining Owner - -	To Owner of external wall -	*See* Form No. 5. -	According to §. 109, &c. -	To be stopped up.
	SPECIAL SUPERVISION.						
§. 15.	On completion of the carcass of a building subject to special supervision.	Notice for inspection thereof -	By the Architect or Builder -	To the Official Referees -	*See* Form No. 6. -	At the Official Referees' office	Survey and approval, or disapproval by Official Referees. Prohibition of use of irregular buildings of this class, and penalty of £. 200 per day.
§. 15.	On completion of amendments, or the entire completion of a building, subject to special supervision.	Notice relative thereto - -	By the Architect or Builder -	To the Official Referees -	*See* Form No. 7. -	At the Official Referees' office	Survey and certificate.
	PARTY-WALLS, &c.						
§. 20, 21, 24, 25, 26.	Before survey, repair or pulling down of a party-wall, party-arch, or party-fence-wall.	Three months' notice before operations.	By the Building Owner. *See Definition*, §. 13.	To the adjoining Owner -	*See* Form No. 8. -	According to §. 109, &c. -	Inspection by Surveyor. §. 24.
§. 24.	In the same case - - - -	Notice for survey - - -	By the Building Owner. *See Definition*, §. 13.	To the District Surveyor and Official Referees.	*See* Form No. 9. -	At the District Surveyor's and the Official Referees' offices.	Inspection by Surveyor, and report to Official Referees.
,,	In the same case - - - -	Appointment of survey - -	By the District Surveyor -	To the Owners and Agents, &c.	*See* Form No. 10. -	To Building and adjoining Owners and Agents.	Inspection by Surveyor, and report to Official Referees.
§. 33, 34.	As to pulling down rooms in intermixed property, and repairing or rebuilding party-fence-walls.	Notice of intention to build a party-wall, or as directed by Official Referees.	By the Building Owner -	To the adjoining Owner and District Surveyor. §. 20.	*See* Form No. 11. -	According to §. 109, &c. -	Erection of wall.
,,	In the same case - - - -	Notice for inspection thereof -	By the Building Owner -	To the District Surveyor and the Official Referees.	*See* Form No. 12. -	At the District Surveyor's and Official Referees' office.	Inspection by Surveyor, and report to Official Referees.
,,	In the same case - - - -	Appointment of survey - -	By the District Surveyor -	To the Owners and Agents, &c.	*See* Form No. 13. -	To Building and adjoining Owners and Agents.	Inspection by Surveyor, and report to Official Referees.
,,	As to pulling down a timber partition, and erecting or raising a party-wall.	Three months' notice of intention to build or raise a party-wall.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 14. -	According to §. 109, &c. -	Erection of wall, or raising of wall.
§. 28.	Excavation against existing party-wall for a deeper story, and for the erection of an external wall.	One month's notice of intention to cut away footings or breast or shaft of a party-wall.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 15. -	According to §. 109, &c. -	Execution of operations.
§. 38.	Building a party-wall on line of junction of two pieces of vacant ground.	One month's notice for consent of adjoining Owner.	By the Building Owner -	To the adjoining Owner -	*See* Form No. 16. -	According to §. 109, &c. -	Execution of operations.
§. 38.	In the same case - - - -	Notice of consent - -	By the adjoining Owner -	To the Building Owner -	*See* Form No. 17. -	According to §. 109, &c. -	Erection of wall.
	MODIFICATIONS.						
§. 22, 23.	Modification of intended work to suit adjoining owner.	Seven days' notice for consent	By the adjoining Owner -	To the Building Owner -	*See* Form No. 18. -	According to §. 109, &c. -	If consent not given, commencement of works must be delayed for decision of Official Referees.
,,	In the same case - - - -	Application for decision -	By the adjoining Owner -	To the Official Referees -	*See* Form No. 19. -	At the Official Referees' office -	Delay in commencing of operations.
,,	In the same case - - - -	Notice of application - -	By the adjoining Owner -	To the Building Owner -	*See* Form No. 20. -	According to §. 109, &c. -	,, ,,

SCHEDULE (M.)—*continued.*

FORMS OF NOTICES AS TO WORKS.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

1.—*NOTICE by the Builder to the District Surveyor, Two Days before commencing Operations.*

I DO hereby give you notice, That I intend to (1) and that C. D., of is to be the (2) of the works to be executed; and that the said works will be begun on the day of

Dated this day of

(Signature and Address.)

*** Certain Penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

2.—*NOTICE by the Builder to the District Surveyor, Two Days before resuming Operations.*

I DO hereby give you notice, That I intend to re-commence the (3) and that C. D. of is to be the (2) of the works to be resumed; and that the said works will be continued on the day of

Dated this day of

(Signature and Address.)

*** Certain Penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 13, 1844.

3.—*NOTICE by the Builder to the District Surveyor, as to Change of Builder.*

I DO hereby give you notice, That, with reference to the works specified in my Notice of last E. F. (2) is to be placed in charge of the said works, instead of C. D. the (2) mentioned in the said Notice.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. s. 14, 1844.

4.—*NOTICE by the District Surveyor to the Builder, as to any thing done in the Erection of any Building not conformably to the Act.*

I DO hereby give you notice, That the (4) now in progress (5) situate in (6) is not conformable to the statute in the portions thereof under mentioned; and I require you within Forty-eight hours from the date hereof to amend the same.

Dated this day of at the hour of by the clock.

Note.—Irregularities referred to.

(Signature.)

METROPOLITAN

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(1) *Describing the erection or intended operation in general terms, and whether it relate to any of the following matters:—*
"The erection of any building;"
or, "The making of any addition to or alteration in any building;"
or, "The building, pulling down, re-building, cutting into or altering any party-wall, external wall, chimney-stack or flue;"
or, The making of "any opening in any party-wall."
or, The doing of "any other matter or thing by this Act placed under the supervision of the Surveyor."

(2) *Insert* "Architect," *or* "Builder," *or other Superintendent to have charge of the works.*

(3) *Describing in general terms the works referred to in notice No.* 1, *and which works may have been suspended three months.*

(4) *Insert* "building," *or* "alterations," *or* "building operations," *as the case may be.*

(5) *Insert* "under your superintendence" *or* "in the building belonging to you," *as the case may be.*

(6) *Insert the situation, as the case may be.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. s. 37, 1844.

5.—*NOTICE by an Owner or Occupier to an adjoining Owner or Occupier, to stop up an Opening in an External Wall abutting on his Premises.*

I DO hereby give you notice, That if within One month from the date hereof you do not stop up the opening made in the external wall of your premises situate in (1) and which abuts on my (2) I shall, at your expense, cause the same to be stopped up, conformably to the statute.

Dated this day of

(Signature and Address.)

FORMS OF NOTICES AS TO SPECIAL SUPERVISION.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 15, 1844.

6.—*NOTICE by an Architect or Builder to the Official Referees, as to Completion of the Carcass of a Building subject to special Supervision.*

I DO hereby give you notice, That the Building now erecting under my superintendence in (1) being a building of the (3) and having been completed to the full height of the walls thereof, and the timbers, floors, roofs and partitions being fixed, I require you, in accordance with the statute, should you be of opinion that the building is subject to special supervision, to survey the same, and to certify accordingly.

Dated this day of

(Signature and Address.)

[*** A Penalty of £.200 per day for using any such building without its being certified subsequent to notice as above and following.]

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 15, 1844.

7.—*NOTICE by an Architect or Builder to the Official Referees, as to Completion of Amendments, and of Buildings subject to special Supervision.*

I DO hereby give you notice, That the building now erecting under my superintendence in (1) being a building of the (3) and having been completed in pursuance of your survey and notice subsequent, I require you, in accordance with the statute, to survey the same, and to certify accordingly.

Dated this day of

(Signature and Address.)

[*** This Notice will be used both with reference to the completion of amendments and to the entire completion of a building.]

FORMS OF NOTICES AS TO PARTY-WALLS, &c.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 20, 21, 24, 25, 1844.

8.—*NOTICE to be given (One Month before Survey, and Three Months before commencing Operations) by an Owner or Occupier, to an adjoining Owner or Occupier, that the Party-wall, or Party-arch, or Party-fence-wall is out of Repair.*

I DO hereby give you notice, That I apprehend that the (4), or some part thereof, on the line of junction between my (5) situate, &c., and the (5) thereto adjoining, situate on the side thereof, is so far out of repair (6) as to render it necessary to (7) such wall or some part thereof; and that I intend to have such wall surveyed, pursuant to the statute; and also, that I have given notice to the Surveyor of the District and to the Official Referees to survey the premises, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt, and to certify accordingly.

Dated this day of

(Signature and Address.)

METROPOLITAN

(1) *Specify the situation.* (2) *Insert* "ground" *or* "building adjoining."
(3) *Insert* "First rate of Second class," *or* "of the Third class," *as the case may be.*
(4) *Insert* "party-wall," *or* "party-arch" *or* "party-fence-wall," *as the case may be.*
(5) *Insert* "house," *or* "building," *or* ground," *as the case may be.*
(6) *Insert when required* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."
(7) *Insert* "repair," *or* "pull down and rebuild," *as the case may be.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 20, 1844.

9.—*NOTICE, in the same Case, to the Surveyor and Official Referees.*

I DO hereby give you notice, That I apprehend that the (1) or some part thereof, on the line of junction between my (2) situate in and the (2) thereto adjoining, situate on the side thereof, is so far out of repair (3) as to render it necessary to repair or pull down and rebuild such wall, or some part thereof; and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more Surveyors or Agents appointed by me, as under mentioned, or by C. D., the owner of the adjoining property, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt; and I do hereby also intimate that I have served a notice on C. D. to the like effect.

Dated this day of

(Signature and Address.)

Names and Addresses of one or more Surveyors or Agents for Building-Owner.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 20 and 24, 1844.

10.—*NOTICE, in the same Case, by the District Surveyor, to the Building Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, Surveyor of the district, do hereby give you notice, That, in pursuance of an application made to the Official Referees and to me in that behalf, it is my intention to proceed to view the premises (4) situate in for the purpose of certifying the condition of the (1), and whether any part thereof is so far out of repair as to require to be either wholly or in part repaired, or pulled down and rebuilt; and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more Surveyors or Agents on behalf of the building owner and the adjoining owner.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 34, 1844.

11.—*NOTICE to be given Three Months before commencing Operations, by an Owner to an adjoining Owner.*

I DO hereby give you notice, That I intend to (5) and that I intend to have such (6) surveyed conformably to the statute; and that I have given notice to the District Surveyor and to the Official Referees to survey the premises, and to certify accordingly.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 34, 1844.

12.—*NOTICE in the same Case to the Surveyor and Official Referees.*

I DO hereby give you notice, That I intend to (5) and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more Surveyors or Ageuts appointed by me, as under mentioned, or by C. D., the owner of the adjoining property, for the purpose of certifying whether the whole or any part (7) ought to be pulled down and rebuilt; and I do hereby also intimate that I have served a notice on C. D. to the like effect.

Dated this day of

(Signature and Address.)

Names and Addresses of one or more Surveyors or Agents for Building-Owner.

METROPOLITAN

(1) *Insert* "party-wall," *or* "party-arch," *or* "party-fence-wall," *as the case may be.*
(2) *Insert* "house," *or* "building," *or* "gound," *as the case may be.*
(3) *Insert, when required,* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."
(4) *Designated by number or other name.*
(5) *Specify the kind of operation, as to whether it be intended—*
"To raise a party-fence-wall;"
or, "To repair or rebuild a party-fence-wall;"
or, "To pull down and rebuild rooms in intermixed property, &c.;"
and specifying the situation, &c.
(6) *Insert* "party-fence wall," *or* "rooms in intermixed property."
(7) *Specify the kind of operation intended.*

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 33, 34, 1844.

13.—*NOTICE in the same Case by the District Surveyor to the Building Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, Surveyor of the District, do hereby give you notice, That, in pursuance of an application made to the Official Referees and to me in that behalf, it is my intention to proceed to view the premises (1) situate in for the purpose of certifying whether any part of such (2) require to be (3) and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more Surveyors or Agents whom the parties concerned shall appoint for that purpose.

Dated this day of

(Signature.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 26, 1844.

14.—*NOTICE to be given Three Months before commencing Operations, by an Owner to an adjoining Owner, where no Survey is required.*

I DO hereby give you notice, That I intend to (4) pursuant to the Statute.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 28, 1844.

15.—*NOTICE of Intention to build an external Wall against existing Party-wall, and for that purpose to cut away Footings, Breast and Shaft of an existing Party-wall.*

I DO hereby give you notice, That it is my intention, one month after the date hereof, to build an external wall against the existing party-wall by which our premises are parted, situate , and to cut away such portion of the footings or chimney breast or shaft in such party-wall as will be necessary for that purpose.

Dated this day of

(Signature and Address.)

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 38, 1844.

16.—*NOTICE of Desire to build a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I desire to build partly on my land or ground adjoining your vacant ground, and partly on your vacant ground, on the line of junction of the said premises, (5) which will be of the under-noted thicknesses and dimensions; and should you consent thereto, I require you to signify such consent in writing on or before the day of next.

Dated this day of

(Signature and Address.)

Note of the Thickness and Dimensions.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 38, 1844.

17.—*NOTICE of Consent to the building of a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I consent to the building of a (5) partly on my land or ground adjoining your vacant ground, on the line of junction of the said premises, which I require to be of the under-mentioned thicknesses and dimensions, and other particulars.

Dated this day of

(Signature and Address.)

Note of the Thickness and Dimensions, and other Particulars.

FORMS

(1) *Designated by number or other name.* (2) *Specify the kind of operation intended.*
(3) *Insert* "raised," *or* "repaired," *or* "pulled down and rebuilt," *as he case may be.*
(4) *Specify the kind of operation, as to whether it be intended—*
"To pull down a timber partition, and instead thereof to build a party-wall," *or* to rebuild a sound party-wall.
or "To raise a party-wall."
(5) *Insert* "party-wall", *or* "party-fence-wall" *or* "external wall," *as the case may be.*

SCHEDULE (M.)—*continued.*

FORMS OF NOTICES AS TO MODIFICATION OR DELAY OF INTENDED BUILDING OPERATIONS.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 22, 23, 1844.

18.—*REQUISITION to a Building Owner by an adjoining Owner as to Modification or Delay of intended Work on his behalf.*

I DO hereby give you notice, That I require you to (1) the works specified in your notice of the day of in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by you; and if you do not consent hereto, or dissent therefrom, within days, then, in pursuance of the statute, you are hereby required to delay your intended operations until the Official Referees shall have determined thereon.

Dated this day of

(Signature and Address.)

Note of Modifications.

METROPOLITAN BUILDINGS ACT, VICT., c. , s. 22, 23, 1844.

19.—*NOTICE by an adjoining Owner to the Official Referees as to the Modification or Delay of intended Works of a Building Owner.*

I DO hereby give you notice, That C. D., of having specified in his notice of the day of certain works to be executed subsequent to the day of next; and I having served upon him a requisition in reference to the (2) of the works so intended by him, in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by him, and he not having attended thereto; it is my desire that a survey be made in pursuance of the statute, with reference to such works, and the notices referred to.

Dated this day of (3)

(Signature and Address.)

Note of Modifications.

METROPOLITAN BUILDINGS ACT, VICT., c. s. 22, 23, 1844.

20.—*NOTICE by an adjoining Owner to a Building Owner as to Application to the Official Referees for Survey of intended Works with reference to the Modification or Delay thereof.*

I DO hereby give you notice, That, in consequence of your not consenting to the (4) of the works intended by you, as specified in my requisition of the day of last, I have applied to the Official Referees for a survey of the premises, pursuant to the statute.

Dated this day of (5)

(Signature and Address.)

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(1) *Insert* "modify as under-noted," *or* "delay until the day of ," *as the case may be.*
(2) *Insert* "modification as under-noted," *or* "delay until the day of ," *as the case may be.*
(3) *Within seven days after the previous requisition.*
(4) *Insert* "modification" *or* "delay," *as the case may be.*
(5) *Within seven days after the previous requisition.*

A

B I L L

To widen and improve Piccadilly, in the City of Westminster.

WHEREAS that portion of the street called Piccadilly, in the City of Westminster, which lies between Bolton-street on the east and Park-lane on the west, is narrow and restricted in space, and it is expedient that the same should be widened and improved as hereinafter mentioned : Preamble.

And whereas The Queen's most Excellent Majesty has been graciously pleased to permit and approve of a portion of Her Majesty's Park, called the Green Park, in the parish of Saint Martin-in-the-Fields being appropriated by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the purpose of widening Piccadilly, as hereinafter mentioned, and it is expedient that the portion of the said Park so to be used should be severed from the parish of Saint Martin-in-the-Fields and annexed to the parish of Saint George, Hanover-square, in the city of Westminster, as hereinafter mentioned: But inasmuch as the objects aforesaid cannot be accomplished without the Authority of Parliament;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and they are hereby authorized and empowered to widen and improve the carriage-road and south-side foot-way of so much of the street called Piccadilly,

1. The Commissioners of Woods empowered to widen Piccadilly between Bolton-street and Park-lane.

Piccadilly, in the parish of Saint George, Hanover-square, in the county of Middlesex, as lies between Bolton-street on the east and Park-lane on the west, and to take and use for that purpose so much of Her Majesty's Park called the Green Park in the parish of Saint Martin-in-the-Fields, as will make the said street called Piccadilly, from Bolton-street to Park-lane, of an uniform width of Seventy Feet or thereabouts.

2. Carriage-way and Foot-way may be altered and shut up during the progress of the Works.

And be it Enacted, That in carrying the purposes of this Act into execution, it shall be lawful for the said Commissioners, and they are hereby empowered to raise, lower, alter or remove, or cause to be raised, lowered, altered or removed, the whole or any portion of the carriage and foot ways of Piccadilly aforesaid, and the pavement thereof respectively, and the lamps and lamp-posts or other things standing or being thereon, and during the widening and improvement of the said street to stop up or cause to be stopped up all or such part of the carriage or foot ways of the said street as shall be necessary for the purpose of this Act, and to put up, or cause to be put up, bars, posts, and other erections, and to make such orders for regulating the passage of carts, carriages and horses, and to lay out o cause such part of the said street so widened as aforesaid to be laid out for carriage-ways, and such part thereof for foot passengers, as to the said Commissioners shall seem proper.

3. Street, as widened, to be re-paved by the Commissioners of Woods.

Provided always, and be it Enacted, That the said Commissioners shall well and effectually pave over, either with stone, wood or other material, or macadamize such portion of the carriage-way or foot-ways of the said street, as may be altered or removed by them in carrying into effect the purposes of this Act.

4. For severing a portion of the Green Park from the Parish of St. Martin-in-the Fields, and annexing the same to the Parish of St. George, Hanover-square.

And be it Enacted, That the portion of the said Park called the Green Park by this Act authorized to be appropriated towards widening Piccadilly, shall, immediately after such appropriation, and from thenceforth for ever, be severed from the parish of Saint-Martin-in-the-Fields, in the City of Westminster; and the whole of the street called Piccadilly, extending from Bolton-street aforesaid to Park-lane aforesaid, when so widened and improved as aforesaid, and the carriage-way and foot-ways on each side thereof, as well on the south side as on the north side thereof, and every part thereof, shall be deemed to be, and shall be, to and for all intents and purposes, an integral part and portion of the said parish of Saint George, Hanover-square, and shall no longer be part or parcel of the said parish of Saint Martin-in-the-Fields, any law, statute, custom or usage to the contrary thereof in anywise notwithstanding.

5. The whole of Piccadilly, between Bolton-street and Park-lane, when widened and improved, to be repaired by the Parish of St. George, Hanover-square.

And be it Enacted, That after the said street called Piccadilly shall have been widened and improved as aforesaid, and the portion of the said Park by this Act authorized to be appropriated to the widening and improvement thereof shall have been first levelled and paved by the said Commissioners, the whole of the said street and the carriage-way and foot-ways, as well on the south as on the north side thereof, between Bolton-street and Park-lane aforesaid, shall for ever thereafter be maintained and kept in repair by and at the expense of the parochial or other officers, body or bodies, person or persons, who, at the time of the passing of this Act, are, or may be by law liable to the repair of that portion of the said street called Piccadilly as is situate in the parish of Saint George, Hanover-square.

6. Powers of 5 Vict., c. 19, extended to this Act.

And be it Enacted, That it shall be lawful for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and they are hereby authorized and empowered, as regards the lands and hereditaments mentioned in the Schedule to this Act, and for the purpose of obtaining the actual and immediate possession thereof, to have, use, and exercise all and every the same or the like powers and authorities as are contained in an Act passed in the fifth year of the reign of Her present Majesty, intituled, "An Act to empower the Commissioners of Her Majesty's Woods to form a new Opening from the Knightsbridge-road into Hyde Park, and a new Opening from High-street, Kensington, into an intended new Road across the Palace Green, and for annexing a Piece of extra-parochial Ground in the Royal Garden to the respective Parishes of Saint Mary Abbotts, Kensington, and Saint Mary, Paddington, in several Portions," as fully in all respects as if the lands and hereditaments mentioned in the Schedule to this Act were to be obtained for the purpose of the said last-mentioned Act, and as if the lands and hereditaments mentioned in the Schedule to this Act had been mentioned and included in the Schedule to the said recited Act; and all the clauses and provisions in the said recited Act contained empowering the said Commissioners, on behalf of Her Majesty, to take and use any lands or hereditaments, and to treat for the purchase thereof, and for enabling or requiring bodies politic, trustees and other persons to sell and convey, and to accept satisfaction for the value of lands and hereditaments taken for requiring parties to deliver statements of their claims to the said Commissioners, and for ascertaining and fixing, by the verdict of a jury or otherwise, the amount of compensation to be paid to such bodies politic, trustees, or other persons, and for regulating the payment of the purchase-money, and the apportionment of rents for enabling and requiring mortgagees to release and convey, and providing for cases where the mortgage-money is more than the value of the lands comprised in the security, or where a part only of the lands comprised in any security is taken,

and all other powers and authorities, clauses and provisions, whether compulsory or otherwise, given or granted to the said Commissioners, or mentioned in or prescribed by the said recited Act, shall extend and be applicable to the lands or hereditaments mentioned in the Schedule to this Act, in such and the same or the like manner as if all the said powers and authorities, clauses, provisions and regulations were herein repeated and expressly re-enacted and adapted to such last-mentioned lands and hereditaments, and to the owner or owners, mortgagee or mortgagees, lessee or lessees, tenant or tenants, occupier or occupiers thereof respectively, save and except in so far only as such clauses, provisions and regulations may be repugnant to the objects effected or intended to be effected by this Act.

7. Act may be amended this Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

8. Public Act.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

THE

THE SCHEDULE

Referred to by this ACT.

PARISH.	DESCRIPTION.	OWNER.	LESSEE.	OCCUPIER.
Saint Martin-in-the-Fields.	Tenement and Garden.	The Crown.	The Baron Rothschild.	The Baron Rothschild.

Piccadilly Improvement.

A

B I L L

To widen and improve Piccadilly, in the City of Westminster.

(*Prepared and brought in by The Earl of Lincoln and Mr. Young.*)

Ordered, by The House of Commons, *to be Printed,* 11 *July* 1844.

479.

Under 1 oz.

A

B I L L

To provide for the Care and Preservation of Trafalgar Square, in the City of Westminster.

WHEREAS The Queen's most Excellent Majesty, in right of Her Crown, is seised to Herself, Her heirs and successors, of the Place or Square called Trafalgar Square, in the parish of Saint Martin-in-the-Fields, in the city of Westminster and county of Middlesex: Preamble.

And whereas such Place or Square has recently been formed, laid out, embellished and ornamented at the public expense, and it is expedient that provision should be made for the care and preservation thereof, and for the ornamental and other works, matters and things erected upon or around the same, as hereinafter mentioned;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by The QUEEN's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Place or Square called Trafalgar Square, and all the ornamental and other works, matters and things now being, or which may hereafter be placed or erected in, upon, about or around the same, shall be and the same are by this Act vested in The Queen's most Excellent Majesty, Her heirs and successors, as part and parcel of the hereditary possessions and revenues of Her Majesty in right of Her Crown, within the ordering and survey of the Court of Exchequer. 1. Trafalgar Square and the Works thereon vested in Her Majesty.

2. Care and management of the Square, and of all Works thereon, vested in the Commissioners of Woods, &c.

And be it Enacted, That the care, control, management and regulation of the said Place or Square, and of all ornamental and other works, matters and things now being, or which may hereafter be placed or erected in, upon, or about or around the same, shall be and the same are by this Act vested in the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings; and the said Commissioners shall, and they are hereby required, by and out of such monies as may from time to time be placed at Her Majesty's disposal for that purpose by authority of Parliament, to well and sufficiently pave, light, cleanse, water, repair and keep in good order and condition the said Place or Square, and all ornamental and other works, matters and things now being, or which may hereafter be placed or erected in, upon, about or around the same, any law, statute, custom or usage to the contrary in anywise notwithstanding.

3. Powers of 10 Geo. 4, c. , and 2 & 3 Vict., c. , extended to this Act.

And be it Enacted, That all the clauses and provisions of an Act passed in the tenth year of the reign of his late Majesty GEORGE the Fourth, intituled, "An Act for improving the Police in and near the Metropolis," and of another Act passed in the second and third year of the reign of Her present Majesty, intituled, "An Act for further improving the Police in and near the Metropolis," shall extend and apply to this Act, and to the said Place or Square, and to the works, matters or things for the time being in, upon, about or around the same, so far as such clauses and provisions are not repugnant to or inconsistent with the provisions of this Act.

4. Act may be amended this Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

5. Public Act.

And be it Enacted, That this Act shall be deemed to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

A

B I L L

To empower Her Majesty's Commissioners of Woods to form a Terrace and Embankment, with convenient Landing-places for the Public, on the Middlesex Shore of the River Thames, between Westminster and Blackfriars Bridges.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by a Commission under the Royal Sign Manual, bearing date the Twenty-third of November One thousand eight hundred and Forty-two, Her Majesty was graciously pleased to appoint certain persons therein named to be Her Majesty's Commissioners to inquire into and consider the most effectual means of improving the Metropolis, and of providing increased facilities of communication within the same: Preamble.

And whereas the said Commissioners, by their first Report to Her Majesty under their hands and seals, bearing date the Twenty-seventh day of January One thousand eight hundred and Forty-four, have represented to Her Majesty that the present state of the River Thames above London Bridge is such as to render highly expedient the adoption of some proceedings for remedying the existing defects, and for preventing the further deterioration of the Navigation; that for securing these important objects an Embankment of the River would be the most effective measure; that an Embankment is urgently required on that portion of the left (or Middlesex) Bank of the Thames which lies between Westminster and Blackfriars Bridges; and that such Embankment might be advantageously combined with the formation of a carriage and foot line of communication between Scotland-yard and Blackfriars Bridge, whereby the great objects of public recreation and health would be promoted, and considerable relief be given to the existing

insufficient thoroughfares between the Eastern and Western districts of the Metropolis:

And whereas the said Report of Her Majesty's Commissioners has been presented to Parliament by Her Majesty's Command:

And whereas it is expedient, and Her Majesty has been graciously pleased to consent, that the recommendations contained in the said Report of the said Commissioners shall be carried into effect to the extent and in manner hereinafter mentioned:

And whereas by an Act passed in the present Session of Parliament, intituled, "An Act ," a fund has been created for the execution of such improvements in the Metropolis, recommended or to be recommended by the said Commissioners, as shall meet with Her Majesty's approbation and be sanctioned by Parliament:

May it therefore please Your MAJESTY,

That it may be Enacted; **And be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

1. Commissioners of Woods and Works incorporated, and empowered to execute the purposes of this Act.

THAT it shall be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, and they are hereby empowered to carry the purposes of this Act into execution in manner hereinafter mentioned; and for those purposes, and all matters and things hereby authorized to be done, the said Commissioners for the time being shall be and they are hereby constituted a Corporation, by the name and style of "The Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings," to enable them to execute and carry into effect the several powers and purposes of this Act, and by that name and style may have perpetual succession and use a common seal, to be by them from time to time altered as they shall think fit, and shall and may sue and be sued, implead and be impleaded, and also shall have power and authority to purchase and hold lands, tenements and hereditaments to them and their successors and assigns for ever.

2. Providing for expenses.

And be it Enacted, That out of the fund created or provided for the execution of improvements in the Metropolis by the said recited Act of the present Session of Parliament, such sum or sums of money as the Lord High Treasurer or Commissioners for executing the office of Lord High Treasurer of the United Kingdom, or any Three of them, shall from time to time by warrant under their hands

hands direct, not exceeding in the whole the sum of

shall be from time to time advanced and paid to the Commissioners for executing this Act, and be by them applied in payment of the expenses of this Act, and of carrying the same into execution, and of constructing and maintaining the Terrace, Roadway Communications and Embankments, and the Piers, Stairs and Landing-places hereinafter authorized to be constructed by the said Commissioners.

3. The Commissioners empowered to make a Terrace, Roadway and Embankment.

And be it Enacted, That it shall be lawful for the Commissioners and they are hereby empowered to make and construct a raised Terrace and public Roadway or Communication from or near Whitehall-place, in the parish of Saint Martin-in-the-Fields, in the city of Westminster, on or along the bed or shore of the River Thames, on the Middlesex and city of London side thereof, to or near to Chatham-place, Blackfriars, in the city of London; also to embank certain portions of the bed or shore of the said River, on the said Middlesex side thereof, from Westminster Bridge to the said intended Roadway, at or near to the Northern Pier of the intended Hungerford Suspension Bridge, as shown on the plans hereinafter mentioned or referred to; and also, from time to time, to alter, widen, divert and remove all causeways, piles, stairs, hards, or landing-places on the bed or shore of the said River, or projecting from the banks thereof, on the side aforesaid, between Westminster Bridge and Chatham-place aforesaid, and from time to time to drive other piles, and to construct other causeways, stairs, piers and landing-places in such situations and in such manner as they shall deem best suited to the convenience of the public, and to remove all mud-banks and obstructions on the bed or shore of the said River, and to deepen, scour and cleanse the same bed or shore on the side thereof aforesaid, and to dredge and deepen any other parts of the bed of the said River between Westminster Bridge and Chatham-place aforesaid; also to make and maintain all necessary and convenient ways and communications from Whitehall-place, Villiers-street, the Savoy, Wellington-street, Surrey-street, Norfolk-street, and Arundel-street, to the said intended Terrace and Roadway, and to construct and maintain all necessary viaducts, roads, bridges, embankments, quays, basins, banks, walls, locks, sewers, culverts, drains, arches, landing-places, tide-gates, piles, sluices, lock-gates, and other necessary works.

4. Plans and books of reference to remain in custody of Clerks of the Peace.

AND whereas maps or plans and sections describing the said Terrace, Roadway Communications and Embankments, and the lands upon or through which the same and the Works connected therewith are intended to be carried or made, together with books of reference thereto, containing lists of the names of the owners

and occupiers of such lands, have been deposited with the Clerk of the Peace for the county of Middlesex, the Town Clerk of the city of London, and the Clerk of the Peace for the city and liberty of Westminster; BE it therefore Enacted, That the said maps or plans, sections and books of reference so deposited shall remain with and be kept by the said Clerks of the Peace and Town Clerk respectively; and all persons interested in any manner in such lands shall have liberty at all reasonable times to inspect and to make extracts from or copies of the said maps or plans, sections and books of reference respectively, paying to the Clerk of the Peace or Town Clerk in whose custody the map or plan, section or book of reference so inspected or referred to, may be, for every inspection the sum of *One Shilling*, and for copies of or extracts from the said books of reference after the rate of *Sixpence* for every One hundred words; and the said maps or plans, sections and books of reference, or true copies thereof, or so much thereof respectively as shall relate to any matter which may be in question, shall be and are hereby declared to be good evidence in all courts of law or elsewhere.

5. Unintentional errors in Act, plans or books of reference not to prevent the execution of the Works.

Provided always, and be it Enacted, That it shall be lawful for the Commissioners to make the said Terrace, Roadway, Communications and Embankments and other Works in the lines or course, and upon or through the lands delineated on the said maps or plans, although such lands or any of them, or the situation thereof respectively, may happen to be omitted, misstated, or erroneously described in this Act, or in the Schedule hereto, or in the books of reference to the said maps or plans, if it shall appear to any Two or more Justices of the Peace for the county of Middlesex or cities of London or Westminster (in case of dispute about the same), and be certified by writing under their hands, that such omissions, misstatement or erroneous description proceeded from mistake; and the certificate of such Justices shall be deposited with and remain in the custody of the respective Clerks of the Peace, or Town Clerk of the said county or cities, as the case may require.

6. Limit of deviation.

And be it Enacted, That the Commissioners, in making the said Terrace, Roadway Communications, Embankments and other Works by this Act authorized, shall have full power and authority to deviate from the lines delineated on the maps or plans so deposited as hereinbefore is mentioned; provided every such deviation do not extend beyond the lines marked as the limits of deviation on such deposited plans.

7. Limiting deviations in height from datum line.

And be it Enacted, That in making the said Terrace, Roadway Communications and Embankments, it shall not be lawful for the said Commissioners to raise the levels of the said Terrace, Roadway Communications

Communications or Embankments, higher than Feet above the datum line shown on the deposited sections, and therein described as Trinity high-water mark.

8. The Commissioners may contract for the Works.

And be it Enacted, That it shall be lawful for the Commissioners and they are hereby authorized to contract and agree with any person for making the said Terrace, Roadway Communications and Embankments, or any part thereof, or any other of the Works hereby authorized to be made and done, and that in such manner, and for such sums, and under such regulations and restrictions, as the Commissioners, with the consent of the Commissioners of Her Majesty's Treasury for the time being, or any Three of them, shall think proper.

9. Power to enter and make Surveys.

And be it Enacted, That for the purpose of surveying and taking levels, and marking the lines of the Terrace, Roadway Communications, Embankments and other Works hereby authorized to be made, it shall be lawful for the Commissioners, their engineers, agents and workmen, and all other persons employed by them, to enter into and upon the lands of any person or corporation whatsoever, and to drive piles into the bed and shore of the River Thames, and to set up poles and marks to denote the lines of the said intended Terrace, Roadway Communications and Embankments, and the land or ground authorized and intended to be taken and used for the construction thereof, without being deemed trespassers, and without being liable to any fine, penalty or punishment on account thereof; they the said Commissioners making compensation for any damage thereby occasioned to the owners or occupiers of the said lands.

10. Penalty for obstructing the setting out the Works.

And be it Enacted, That if any person shall obstruct or prevent any person employed by the Commissioners in setting out the lines of the said Terrace, Roadway Communications or Embankment, or engaged in the construction thereof or any part thereof, or shall injure, damage, pull up or remove any stakes, piles or piers that may have been driven into the ground for the purpose of setting out the lines of the said Terrace, Roadway Communications and Embankments, he shall forfeit and pay any sum not exceeding nor less than for every such offence.

11. The Commissioners empowered to treat for the purchase of Lands.

And be it Enacted, That it shall be lawful for the Commissioners and they are hereby empowered to treat and agree for the purchase of any lands which they may deem necessary for the purposes of this Act to be taken and used by them, and of any subsisting leases, terms, shares, estates and interests therein, and charges thereon, or such of them, or such part or parts thereof respectively, as the Com-

missioners shall think proper, and for that purpose to enter into any contract which they may think fit.

12. Bodies politic and Trustees empowered to sell and convey.

And be it Enacted, That it shall be lawful for all bodies politic, corporate or collegiate, ecclesiastical or lay, aggregate or sole, and for all trustees and feoffees in trust for charitable and other purposes, and all executors and administrators, not only for and on behalf of themselves, their successors, heirs, executors and administrators respectively, but also for and on behalf of their respective cestuique trusts, whether infants, femes covert, idiots, lunatics, or persons not born or not ascertained, or any other person whomsoever, and to and for all tenants for life, or for years absolute, or determinable on any life, and all persons having any other partial or qualified estate or interest, not only for and on behalf of themselves, their heirs, executors, administrators and issue, but also for and on behalf of the persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for selling and conveying the same, and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and heirs, executors and administrators, and issue of such wards, wives or persons respectively, and to and for all femes covert entitled in their own right to any such lands, or to dower or other interest therein, on behalf, not only of themselves, but also of their respective heirs, executors, administrators and issue, and also where such wards, wives, persons or femes covert respectively shall be tenants for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardians, husbands, committees and femes covert, on behalf of the persons on behalf of whom such wards, wives, persons or femes covert respectively, if of full age, unmarried, and of sound mind, might have contracted for, sold and conveyed the same lands, and to and for all persons whomsoever who are or shall be seised or possessed of or interested in any lands which by the said Commissioners shall be thought necessary for any of the purposes of this Act, to contract for, sell and convey the same, and every or any part thereof, to the said Commissioners, their successors and assigns; and all contracts, agreements, bargains, sales, conveyances and assurances, acts and deeds, which shall be made by such bodies politic, corporate or collegiate, trustees or other persons as aforesaid, shall be valid and effectual in law, and all bodies politic, corporate or collegiate, and all persons whomsoever contracting or conveying as aforesaid, are hereby indemnified for or in respect of any such sale which they shall make by virtue or in pursuance of this Act.

And

13. Satisfaction for the value of Lands taken may be accepted.

And be it Enacted, That all bodies politic, corporate or collegiate, trustees and other persons hereinbefore capacitated to contract for, sell and convey any such lands as aforesaid, and any other owner of any such lands, or any share, estate or interest therein, or charge thereon, may accept and receive such satisfaction and recompense for the value thereof, and such bodies, trustees, persons or owners, and also any tenant or other occupier of any such premises, entitled to any compensation for tenants' fixtures, or for any other injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof, as shall be agreed upon between them respectively and the Commissioners; and in case the Commissioners and the said parties interested in such lands or fixtures, or sustaining any injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled by a Jury in manner hereinafter directed.

14. Parties to deliver statements of their claims within One Month after notice.

And be it Enacted, That on or before the expiration of *One calendar Month* next after notice in writing from the Commissioners or their agent of their intention to take or use any lands for the purposes of this Act shall have been given either to the principal officer of the body politic, corporate or collegiate, or to the person who shall be the owner or occupier of such lands, or, in case he cannot be found or ascertained, left at the usual or last place of his abode, or with the tenant or occupier of such lands, or fixed upon the premises, (and for the purposes of this Act, the owner shall be any person hereby capacitated to sell), every body politic, corporate and collegiate, trustee, and other person seised, possessed of, or interested in or authorized by this Act to accept and receive satisfaction or recompense for the value of the same, or any estate, share or interest therein, or charge thereon, or having or claiming to be entitled to any compensation for any good-will or improvements, or for fixtures, or for any injury or damage sustained on account of the execution of this Act, shall deliver or cause to be delivered to the Commissioners, by leaving the same at their office, a statement in writing of the particulars of the estate, share, interest or charge which they claim to be entitled to, or to be authorized to receive in satisfaction or recompense for and of the good-will and improvements which may be lost, and of the fixtures, and of the injury or damage (if any) sustained by them, and of the amount of the sum of money which they may expect and be willing to receive in satisfaction or discharge for the value of such estate, share, interest or charge, and also the amount of the sum of money which they may expect and be willing to receive as compensation for such good-will and improvements and fixtures, and for such injury or damage respectively.

15. If parties refuse to treat, or shall not agree, a Jury to be summoned.

And be it Enacted, That if any owners or proprietors, bodies politic, corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, trustees, femes covert, or any other person seised, possessed of or interested in any lands, or in any share, estate or interest therein or charge thereon, which the Commissioners are hereby empowered to purchase, take and use for the purposes aforesaid, shall neglect or refuse to treat, or shall not agree in the premises, or by reason of absence or disability, shall be prevented from treating with the Commissioners, or with the person authorized by them, for the sale and disposal of their respective estates and interests therein, or, cannot be found or known, or shall not produce and evince a clear title to the premises they may be in the possession of, or to the interest they shall claim therein, to the satisfaction of the Commissioners, then and in every or any such case, the Sheriff, Under-sheriff or High Bailiff of the county or city in which the lands in question shall be situate, or in case such Sheriff, Under-sheriff or High Bailiff shall be in anywise interested in the matter in question, then some one of the Coroners of the county or city not interested therein, shall, upon the warrant of the Commissioners in manner hereinafter mentioned, and he is hereby required and authorized to cause it to be inquired into, and ascertained, upon the oaths of a Jury of Twelve indifferent men of the said county or city, which oaths the said Sheriff, Under-sheriff, High Bailiff or Coroner is hereby empowered and required to administer, what recompense and satisfaction shall be made to such owners, occupiers or other persons interested for the value of such lands, and of the proportionable value of the respective estates and interests of every person seised or possessed thereof or interested therein, or of or in any part thereof, and assess or award the sum or sums of money to be paid to such person or persons, party or parties respectively, for the purchase of such lands, and of such respective estates and interests therein, and also for good-will, improvements, or any injury or damage whatsoever that may affect any such person or persons, party or parties; provided such good-will shall be estimated by what, in the opinion of such Jury, the same would have been worth in case the alterations or improvements intended by this Act had not been in contemplation; and the said Jury, in estimating such recompense and satisfaction, shall take into their consideration the increase in value of the residue of any property of which such shall form part; and in order thereto the said Sheriff or Coroner is hereby empowered and required from time to time, as occasion shall require, to summon and call before the said Jury, and examine upon oath, all persons whomsoever who shall be thought necessary and proper to be examined as witnesses touching or concerning the premises; which oath the said Sheriff, Under-sheriff, High Bailiff or Coroner is hereby empowered to administer,

administer; and such Sheriff, Under-sheriff, High Bailiff or Coroner respectively shall order and cause the said Jury to view the places in question, if there be occasion, and use all other lawful ways and means, as well for his own as for the said Jury's better information in the premises, as the said Sheriff, Under-sheriff, High Bailiff or Coroner shall think fit; and after the said Jury shall have inquired of and ascertained and settled such damage, recompense and satisfaction, the said Sheriff, Under-sheriff, High Bailiff or Coroner shall thereupon order the sum or sums of money so assessed by the said Jury to be paid by the Commissioners to the said owners or occupiers of, or other person interested therein, according to such verdict or inquisition of the said Jury; which said verdict or inquisition and order so had and made shall be final, binding and conclusive, to all intents and purposes, upon and against all bodies politic, corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, as well as all other parties and persons whomsoever; and for the summoning and returning of such Jury the said Commissioners are hereby empowered to issue their warrant to the said Sheriff, Under-sheriff, High Bailiff or Coroner, to summon, impannel and return, at some convenient place in the said county or city, a Jury of not less than Thirty-six or more than Forty-eight honest and indifferent men, qualified according to law to be returned for trials of issues in Her Majesty's Courts of Record at Westminster, to appear before the said Sheriff, Under-sheriff, High Bailiff or Coroner at such time and place as in such warrant shall be appointed; and *Fourteen* Days' notice at the least in writing, under the hands of the Commissioners, or any Two of them, of the time and place at which such Jury are so required to be returned, shall be given to such owners, proprietors, occupiers, corporations, trustees, or any other person interested in the premises, before the time of meeting of the said Jury, by leaving such notice at the dwelling-house of such person or of the head officer of such body politic, corporate or collegiate, or with some tenant or occupier of the premises respectively intended to be valued; and the said Sheriff, Under-sheriff, High Bailiff or Coroner is hereby empowered and required to impannel, summon and return such number accordingly; and out of the persons so impannelled, summoned and returned, or out of such of them as shall appear upon such summons, the said Sheriff, Under-sheriff, High Bailiff or Coroner shall swear or cause to be sworn Twelve, who shall be the Jury for the purposes aforesaid; and in default of a sufficient number of Jurymen, the said Sheriff, Under-sheriff, High Bailiff or Coroner shall return other honest and indifferent men of standers-by, or that can be speedily procured to attend that service (being qualified as last aforesaid), to the number of Twelve; and it shall be lawful for all persons concerned, by themselves, their counsel, solicitors and agents, to attend

and be heard, and to adduce evidence before the Sheriff, Under-sheriff, High Bailiff or Coroner respectively; and such persons shall also have their lawful challenge against any of the said Jurymen when they come to be sworn, but shall not challenge the array.

16. Where part of an estate is taken, the remainder to be valued.

And be it Enacted, That if the owner, lessee or occupier of any lands authorized to be taken by virtue of this Act shall not be inclined to sell or part with the whole thereof, or of his interest in the whole thereof, and it shall not be found necessary to take the whole for the purposes of this Act, and the said parties cannot agree as to the sum of money to be paid for the part which the Commissioners or any person authorized by them shall not think it necessary to purchase, then and in such case the Jury which shall be summoned to value the premises shall assess the value of the whole premises according to the condition in which they are at the time of taking the view, and also the value of that part of the premises which will remain after the Commissioners or the person authorized by them have taken away so much as they shall think necessary for the purposes of this Act; and in such last valuation the said Jury shall take into their consideration the improvement or depreciation which the remainder of the premises is likely to receive or sustain from the alteration intended to be made; and the Jury having made these two valuations, the difference between them shall be the price to be paid by the Commissioners for that part which they shall have occasion for, and such price shall be recorded as the verdict of the Jury for the value of the same.

17. Notice to be given of compensation claimed.

And be it Enacted, That no Jury to be summoned by virtue of this Act shall be allowed to assess or award any sum of money to any body politic, corporate or collegiate, or person, by way of compensation for good-will or improvements alleged to have been lost, or tenants' fixtures, or any injury or damage alleged to have been sustained by them by reason or means of this Act, or any thing which shall or may be done in the execution hereof, unless such a statement as hereinbefore is mentioned of the particulars of every such claim, and how and in what manner the amount thereof is made out and computed, shall have been given to the Commissioners, or left at their office, as aforesaid, by and on behalf of such person, Ten Days at least before the time of the meeting of such Jury.

18. Penalty on Sheriff, Jury and Witnesses for neglect of duty.

And be it Enacted, That if the Sheriff, Under-sheriff, High Bailiff or Coroner, so directed to summon and return a Jury as aforesaid, shall make default in the premises, he shall for every such offence forfeit and pay any sum, not exceeding *Ten Pounds*, to the party who shall be prejudiced or injured thereby, to be recovered,

recovered, with full costs of suit, by action of debt or on the case in any of Her Majesty's Courts of Record at Westminster; and if any person so summoned and returned, as aforesaid, upon such Jury, shall not appear, or appearing shall refuse to be sworn or to give his verdict, or shall in any other manner wilfully neglect his duty, contrary to the true intent and meaning of this Act, or if any person so summoned as a witness shall not appear, or appearing refuse to be examined or to give evidence, any person so offending, having no reasonable excuse, to be allowed by the Justices hereinafter mentioned, shall, for every such offence, forfeit and pay any sum not exceeding *Ten Pounds*; which several and respective penalties shall and may be levied by virtue of any warrant under the hand and seal of one of Her Majesty's Justices of the Peace for the county of Middlesex, the city of London, or the city and liberty of Westminster, by distress and sale of the goods and chattels of the person so offending; the person making such distress and sale rendering to him the overplus of the money thereby produced (if any) after such penalty and the charges of such distress and sale should be deducted; and all such fines shall be paid to the Commissioners to be applied for the purposes of this Act.

19. Jury shall, if required, assess value of fee-simple, and then apportion the values of respective interests therein.

And be it Enacted, That in all cases in which a verdict shall be given for the value of any lands or share therein, the Jury shall, if required so to do, by or on behalf of the Commissioners, inquire of, assess and ascertain the value of the fee-simple of the entirety of the said premises, and shall afterwards apportion and divide the value so ascertained between and among all the different shares and charges which shall be claimed, and also between different parts of the said lands alleged to be held under different titles: Provided always, That the verdict of any Jury shall not defeat or prejudice any contract or sale which shall have been previously made of any share or charge, although the value of the same may be ascertained to be different from the amount of the price, recompense or satisfaction agreed to be paid for the same.

20. Verdict of value of lands and damages to be ascertained separately.

And be it Enacted, That the Juries so to be summoned as aforesaid, shall award all determinations, judgments and verdicts, which they shall make and give, in execution of the powers hereby vested in them, concerning the value of the lands, or of any share, estate or interest therein or any charge thereon, separately and distinctly from the consideration of any loss of good-will to which the occupier may personally be entitled, or any other loss or damage to be sustained by any person in consequence of the execution of any of the powers of this Act, and shall distinguish the value set upon the lands or share, estate or interest therein or charges thereon, and the money assessed or adjudged for such good-will, loss or damage

as aforesaid, separately and apart from each other; and when any money shall be assessed or adjudged for such good-will, loss or damage as aforesaid, the Jury shall, if required by the Commissioners, award and declare whether the statement delivered by the claimant of the manner in which any amount of money which shall have been demanded as a compensation for the same, has been computed and made up, gave sufficient particulars to enable the Commissioners to make a proper offer.

21. Providing for expenses of Jury.

And be it Enacted, That in case any Jury to be summoned and sworn pursuant to the authority of this Act, shall give in a verdict or assessment for more money as a recompense, compensation or satisfaction for the rights, interests or property of the person in any such lands, or for any such good-will, improvements, injury or damage as aforesaid, than shall have been agreed to be given and offered for the same in the aggregate by the Commissioners before the summoning and returning of such Jury, or where, by reason of absence in foreign countries, or other incapacity or disability as aforesaid, there shall not be found any person legally capacitated to enter into any contract with the Commissioners, then and in every such case all the reasonable costs, charges and expenses of causing and procuring such recompense, compensation or satisfaction to be assessed by a Jury, shall be settled by the Sheriff, Under-sheriff, High Bailiff or Coroner, before whom such claim shall have been tried, and shall be paid by the Commissioners; but in every case in which any Jury so summoned and sworn as aforesaid shall be of opinion that the statement delivered by the claimant of the manner in which any amount of money which shall have been demanded as a compensation has been computed and made up, did not give sufficient particulars to enable the Commissioners to make a proper offer, and in every other case in which any such Jury shall give in a verdict or assessment for no more or for less money as such recompense, compensation or satisfaction as aforesaid, than shall have been agreed to and offered by the Commissioners in the aggregate for the same, before the summoning and returning of the said Jury, or in case no damage shall have been given by the verdict where the dispute is for damages only, or where the causing or procuring such Jury to be summoned shall have arisen from a refusal to treat or agree with the Commissioners by any body politic, corporate or collegiate, or by any person whomsoever who is, by the provisions of this Act or otherwise, legally empowered to treat, then (except where by reason of absence such person shall be prevented from treating with the Commismissioners) all such costs, charges and expenses to be settled by such Sheriff, Under-sheriff, High Bailiff or Coroner, in manner aforesaid, shall be paid to the Commissioners by the said body politic, corporate or collegiate, or other person so claiming such compensation,

tion, or refusing to treat and agree as before mentioned respectively, (save only and except where, by reason of absence or other like cause, any person shall have been prevented from treating or agreeing as aforesaid, in which case no costs, charges and expenses shall be allowed to either party as against the other); and all costs, charges and expenses hereby directed to be paid to the Commissioners, may be deducted and retained by them out of the money so adjudged or assessed to be paid by them as so much money advanced to and for the use of the person entitled to such money so adjudged; and payment or tender of the remainder of such money shall be deemed and taken to be a payment or tender of the whole sum so adjudged or assessed; or in case no money, or no sufficient sum of money, shall be awarded or assessed to be paid by the Commissioners, whereout such costs, charges and expenses can be deducted, then the same shall and may be recovered by virtue of any warrant under the hand and seal of one of Her Majesty's Justices of the Peace for the county of Middlesex, the city of London, or the city and liberty of Westminster, by distress and sale of the goods and chattels of the person liable to the payment of the same; the party making such distress and sale rendering to such person as aforesaid the overplus of the money thereby produced (if any) after such costs, charges and expenses, and the charges of such distress and sale, shall be deducted.

22. Verdicts to be recorded.

And be it Enacted, That all the said judgments and verdicts shall be entered in the office of the Commissioners, and deposited with the Clerk of the Peace of the county, to be kept and preserved by him amongst the records of the Quarter Sessions of the said county or city within which the lands in question shall be situate, and shall be deemed to be records to all intents and purposes whatsoever, and the same or true copies thereof shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for each inspection the sum of *One Shilling*, and to take copies thereof, paying for every copy the sum of *Sixpence* for every Seventy-two words, and so in proportion for any less number of words.

23. The Commissioners empowered to purchase the whole of the premises, if the owners unwilling to sell a part.

And be it Enacted, That if in any case the owner of any house or building, or of any yard or curtilage occupied therewith, part only of which premises shall at any time be required by the Commissioners to be applied for the purposes aforesaid, shall be unwilling to sell or dispose of such part only of such house, building, yard or curtilage, as shall be required by the Commissioners, it shall be lawful for the Commissioners, and they are hereby required, at the option of any owner of any such house, building, yard or curtilage, to purchase of and from the said owner the whole or such part thereof, over and above such part thereof as may be wanted for the

purposes of this Act as such owner shall think fit, and to apply so much and such part thereof as the Commissioners shall see fit for the purposes aforesaid; and that if such owner shall not or cannot agree with the Commissioners for the price to be paid for the purchase of the whole or such part thereof as aforesaid of such house, building, yard or curtilage, then the value thereof shall be settled and ascertained by a Jury, in such manner as the price for any lands to be taken in pursuance of this Act is directed to be settled and ascertained; and all such other proceedings shall take place respecting the said premises as are hereinbefore mentioned and directed with respect to the lands, the value of which shall be ascertained by a Jury in the manner aforesaid.

24. Persons holding property under leases to produce the same.

And be it Enacted, That in all cases in which any person shall claim any satisfaction or compensation for or in respect of any unexpired term or interest which he shall claim to be possessed of or entitled unto, in any lands intended to be taken or used under the authority of this Act, under or by virtue of any demise or lease, or agreement for demise or lease, or grant thereof, the Commissioners are hereby authorized to require such person to produce or show the demise or lease, or agreement for demise or lease, or grant, in respect of which such claim to satisfaction or compensation shall be made, or the best evidence thereof in his power; and if such demise or lease, or agreement for demise or lease, or grant, or such best evidence thereof as aforesaid, shall not be produced or shown within Twenty-one Days after demand made by the Commissioners, or any person by them authorized, the person claiming such satisfaction or compensation shall be considered and treated as holding only from year to year.

25. For settling disputes as to damages of a small amount.

And be it Enacted, That in case any difference shall arise between the Commissioners and any of the owners or occupiers of the property to be taken or used for the purposes of this Act, as to the amount or value of the damage done by the Commissioners, their agents or workmen, to such property, in the execution of any of the powers of this Act, and such difference cannot be adjusted and settled between the parties, the same shall, in case the amount of damages claimed does not exceed the sum of *Fifty Pounds*, be ascertained and determined by some Two or more Justices of the Peace of the county of Middlesex, city of London, or city and liberty of Westminster, and who, upon application made to them by both or either of the said parties, shall examine into the matter in dispute, and shall determine and settle the amount of compensation which shall be payable by the Commissioners; and such Magistrates may examine witnesses and administer oaths in all respects, and with the same consequences as to false swearing, as if the same were a judicial matter

matter brought before them on which they were by law entitled to adjudicate.

26. The Commissioners not to take possession till purchase-money is paid or tendered.

Provided always, and be it Enacted, That all sums of money or other consideration, recompense or satisfaction to be made or paid pursuant to any such agreement or verdict as aforesaid, shall be paid or tendered to the party entitled to receive the same, or paid into the Bank of England, as hereinafter mentioned, before the Commissioners or any person authorized by them shall proceed to take possession of or use (except for the purposes hereinbefore mentioned) any ground, or pull down any house or other erection or building comprised in or affected by such agreement or verdict respectively.

27. The Commissioners may take possession on payment of purchase-money into the Bank of England.

And be it Enacted, That if any body or person seised or possessed of or interested in any such lands or share, estate or interest therein, or charge thereon as aforesaid, cannot be found, or shall not be known or ascertained, or shall not be able to make a good title to the premises, to the satisfaction of the Commissioners, or shall refuse to execute a conveyance thereof, then and in any of such cases, upon payment of such sum of money as shall have been contracted and agreed, or shall have been assessed and awarded by any referee, or by any Jury in manner aforesaid, to be paid for the purchase of or for the value of the same premises into the Bank of England as hereinafter directed and required, (in case the same shall be requisite) for the use of such person so interested in or entitled as aforesaid, such lands, or parts, shares, estates, interests or charges, and the fee-simple and inheritance thereof, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand in law and in equity of the body, person or unknown person, to whose credit such money shall be paid in, to and out of the lands and premises to be purchased as aforesaid, shall from thenceforth vest in the Commissioners and their successors, who shall be deemed in law to be in the actual seisin and possession thereof, to all intents and purposes, freed and discharged from all former and other estates, rights, titles, interests, liens, claims and demands, as fully and effectually as if every body or person having any estate in the premises had actually conveyed the same by lease and release, bargain and sale enrolled, and with the assent of any protector of the settlement, whose assent might be necessary, or feoffment, with livery of seisin, or any other conveyance or assurance whatsoever; and such payment shall not only bar all right, title, interest, claim and demand of the body, person or unknown person, of, in and to the same premises, to whose credit such payment or tender shall have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of such person or persons, and all estates tail, and other estates in possession, reversion,

sion, remainder, expectancy or contingency, and the issue of such persons, and every other person whomsoever; and the same premises shall and may thereupon be pulled down, made use of and employed for the purposes aforesaid, according to the direction of the Commissioners, and under the regulations in this Act mentioned and contained.

28. Application of purchase-money when amounting to 200 *l.*

And be it Enacted, That if any money shall be agreed or assessed to be paid for any lands or part thereof, or share, estate or interest therein, or charge thereon, or for any other right, matter or interest of what nature or kind soever, purchased, taken or used by virtue of this Act, which shall belong to any body politic, corporate or collegiate, feme covert, infant, lunatic, or other person under any disability or incapacity, or not legally entitled absolutely to dispose of the premises, by the sale of which such money shall be produced, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England, in the name and with the privity of the Accountant-general of the Court of Chancery, to be placed to his account there, ex-parte, "The Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, incorporated for the purposes of this Act," pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and Indorsements thereon, and likewise Indorsements on South Sea Bonds," and pursuant to the general rules and orders of the said Court, and without fee or reward, according to the Act of the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out, on proper Securities, any Monies not exceeding a Sum therein limited, out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-general of the said Court," and such money shall remain so deposited until the same be applied under the direction of the said Court, to be signified by an order made upon petition to be preferred in a summary way by the body or person who would have been entitled to the rents and profits of the said lands in the purchase or redemption of the land tax, or towards the discharge of any debt or other incumbrances, or any part thereof, as the said Court shall authorize to be paid, affecting the same lands, or part thereof, or share, estate or interest therein, or charge thereon, or affecting the lands standing settled therewith, to the same or the like uses, trusts, intents or purposes,

purposes, or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of other lands, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the lands which shall be so purchased, taken or used as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing and undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said Court, upon application thereto be invested by the said Accountant-general in the purchase of Three Pounds per Centum Consolidated, or Three Pound per Centum Reduced Bank Annuities; and in the meantime, and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends of the said Consolidated or Reduced Bank Annuities shall from time to time be paid by order of the said Court to the body or person who would for the time being have been entitled to the rents and profits of the lands so hereby directed to be purchased, in case such purchase or settlement were made.

29. When less than 200*l.*, and amounting to 20*l.*

Provided also, and be it Enacted, That if any lands or part thereof, or share, estate or interest therein, or charge thereon, purchased, taken or used for the purposes aforesaid, belonging to any corporation, or to any person under disability or incapacity as aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall be at the option of the body or person for the time being entitled to the rents and profits of the lands, or parts, shares, estates, interests or charges so purchased, taken or used, or of his guardian or committee, in case of infancy or lunacy, to be signified in writing under his hand, be paid into the Bank of England in the name and with the privity of the said Accountant-general of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to Two or more Trustees to be nominated by the body or person making such option, and approved of by the Commissioners; such nomination and approbation to be signified in writing under the hands and seals of the nominating and approving parties, in order that such principal money and the dividends arising thereon may be applied in manner hereinbefore directed, so far as the case may be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

30. Where less than 20*l.*

Provided always, and be it Enacted, That where such money so agreed or assessed to be paid, as hereinbefore mentioned, shall be

less than Twenty Pounds, then and in all such cases the same shall be applied to the use of the body or person who would for the time being have been entitled to the rents and profits of the lands, parts, shares, estates, interests and charges so purchased, taken or used for the purposes of this Act, in such manner as the Commissioners shall think fit; or in case of the infancy or lunacy of such person, then such money shall be paid to his guardian or committee, to and for the use and benefit of such person so entitled.

31. In case of not making out Titles.

And be it Enacted, That in case the body or person to whom any sum of money shall be agreed to be paid, or shall be awarded by any referee or umpire or by any Jury, for the purchase of any lands or any parts, shares, estates or interests therein, or charge thereon, to be purchased, taken or used by virtue of this Act, shall not be able to make a good title to the premises to the satisfaction of the Commissioners, or shall refuse to execute a conveyance or assignment thereof, or in case the person to whom each sum of money shall be so agreed or awarded to be paid as aforesaid cannot be found, or if the person entitled to such lands, parts, shares, estates, interests or charges be not known or discovered, then and in every such case it shall be lawful for the Commissioners to pay the said sum of money so awarded or agreed to be paid as aforesaid into the Bank of England, in the name and with the privity of the Accountant-general of the said Court of Chancery, to be placed to his account to the credit of the party (if known) who shall be interested in the said lands, parts, shares, estate, interest or charges (describing such lands); but if such party shall not be known, then to the credit of the Commissioners, subject to the order, control or disposition of the said Court of Chancery, which Court, on the application of any body or person making claim to any such sum of money or any part thereof, by motion or petition, shall be and is hereby empowered in a summary way of proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the public funds, or to order distribution thereof or payment of the dividends thereof, according to the respective estate, title or interest of the body or person making claim thereunto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of England, who shall receive such sum of money, is hereby required to give a receipt for such sum, mentioning and specifying for what the same is received, to such person as shall pay any such sum into the Bank as aforesaid.

32. Where any question shall arise, the person in possession shall be deemed entitled, until the contrary be shown.

Provided always, and be it Enacted, That where any question shall arise touching the title of any body or person to any money to be paid into the Bank of England in the name and with the privity of the Accountant-general of the Court of Chancery, in pursuance

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of this Act, for the purchase of any lands or any part thereof, or of any estate, right, title, charge or interest in, to or upon any lands to be purchased or taken in pursuance of this Act, or to any Bank Annuities to be purchased with any such money, or to the dividends of any such Bank Annuities, the body or person who shall have been in possession of such lands, parts, shares, estates, interests or charges at the time of such purchase, and all bodies or persons claiming under such bodies or persons, shall be deemed and taken to have been lawfully entitled to such lands, parts, shares, estates, interests or charges, according to such possession, until the contrary shall be shown to the satisfaction of the said court; and the dividends or interest of the Bank Annuities to be purchased with such money, and also the capital of such Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such lands or part thereof, or to some estate or interest therein, or charge thereon.

33. Court may order expenses of purchase to be paid by the Commissioners.

Provided also, and be it Enacted, That where, by reason of any disability or incapacity of the body or person entitled to any lands, or part thereof, or share, estate or interest therein, or charge thereon, to be purchased or taken under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of England in the name and with the privity of the Accountant-general of the Court of Chancery, and to be applied in the purchase of other lands to be settled to the like uses in pursuance of this Act, it shall be lawful for the said court to order so much of the expenses of any purchase to be made in pursuance of this Act, as the said Court shall deem reasonable, to be paid by the Commissioners, who shall pay the same out of the monies applicable to the purposes of this Act, as the said Court shall direct.

34. Where the title is defective by reason of a rent payable out of other estates, as well as lands required for the purposes of this Act, the money paid into the Bank to be laid out in the purchase of other lands, which shall be subject to the rent in the same manner.

And be it Enacted, That where the money awarded to be paid for any lands which shall be taken for the purposes of this Act shall be paid into the Bank of England in manner hereinbefore directed, in consequence of a good title not having been made to such lands to the satisfaction of the Commissioners, or any person authorized by them, by reason of the same lands being subject, together with other lands not required for the purposes of this Act, to a rent payable to some body or person unable or unwilling to release therefrom the lands so to be taken, then and in every or any such case the lands for the value of which the money to be paid into the Bank, together with the money (if any) to be retained for costs and charges

under the authority of this Act, shall be assessed and be awarded to be paid, shall be and are hereby released and for ever discharged from such rent, and all claims and demands in respect thereof; and the money to be paid into the Bank of England shall be laid out and invested under the direction and with the approbation of the Court of Chancery, to be signified by an order made upon a petition to be peferred in a summary way by the body or person who would have been entitled to the rents and profits of the lands for the value of which such monies respectively shall have been paid as aforesaid, in the purchase of other lands, which shall be conveyed and settled (subject together with such other lands to such rent) to the like uses, trusts, intents and purposes, and in the same manner, as the lands so to be taken as aforesaid stood, settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime, and until such purchase shall be made, the said money shall, by order of the said court, upon application thereto, be invested by the Accountant-general of the said court in his name in the purchase of Three Pounds per Centum Consolidated or Three Pounds per Centum Reduced Bank Annuities; and in the meantime, and until the Bank Annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends and annual produce of the said Bank Annuities shall from time to time be paid by order of the said court to the body or person who would for the time being have been entitled to the rents and profits of the said lands hereby directed to be purchased, in case such purchase and settlement were made; and the lands so to be purchased and settled shall be subject to the rent to which the same shall be declared as aforesaid, in the conveyance and settlement thereof, to be subject, in the same manner to all intents and purposes as the lands taken or to be taken for the purposes of this Act as aforesaid were subject thereto; and the body or person to whom such rent shall be payable shall have such and the same powers and remedies for enforcing the payment thereof, or of any part thereof, out of or upon the lands to be comprised in such conveyance and settlement, and declared to be subject thereto, as they would have been entitled if such rent had originally been reserved out of or charged upon the same, instead of the lands to be taken for the purposes of this Act, and in the same manner, to all intents and purposes, as such rent was reserved out of or charged upon such last-mentioned lands, together with the other lands subject thereto; and in the meantime, and until such purchase shall be made, it shall be lawful for the said court, if the said court shall think proper upon application thereto, to order any part of the dividends and annual produce of the Bank Annuities, in which

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the said last-mentioned money shall be invested, to be paid from time to time to the body or person for the time being entitled to the said rent, in discharge thereof, or part thereof, as the case may be.

35. Power to purchase the release of lands wanted from the rents charged thereon, or to apportion the same.

And be it Enacted, That where any lands purchased or wanted or intended to be purchased by the Commissioners shall be subject, solely or jointly with other lands not intended or wanted to be purchased, to or with any rent-service, rent-charge, or chief rent, or other rent, payment or incumbrance, it shall be lawful for the Commissioners to agree for the release of the lands purchased or wanted or intended to be purchased from such rent, payment or incumbrance, and also where necessary or convenient for an apportionment of such rent, payment or incumbrance, for such gross sum as shall be agreed upon between the Commissioners and the party who, under the provisions of this Act, shall agree to sell or apportion the same, and which agreement may be entered into by all persons and corporations by this Act authorized and empowered to sell or convey lands, and the monies to be paid shall be paid and applied in manner hereinbefore directed with regard to the purchase-monies on the sale of lands; and in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a Jury, if required, in like manner as the price of lands is by this Act directed to be settled in case of dispute as to the value thereof; which Jury shall assess and determine the value of the rent, payment or incumbrance affecting the lands purchased or wanted or intended to be purchased, and shall also (where necessary or convenient) apportion the rent, payment or incumbrance affecting the lands jointly, subject to rent, payment or incumbrance, as hereinbefore mentioned, according to the respective values of the lands purchased or wanted, or intended to be purchased, and of the lands not purchased or wanted, or intended to be purchased, by the Commissioners; and all contracts which shall be made by and between the Commissioners and any such party as aforesaid, respecting such release, shall be valid and effectual in the law; and all conveyances and assurances which shall be made to the Commissioners respecting such releases shall extinguish the whole or a proportionate part of such rent, payment or incumbrance, as the case may be: Provided always, That when the party entitled to such rent, payment or incumbrance shall consider the remaining part of the lands so jointly subject, and the same shall, in fact, be sufficient security for such rent, payment or incumbrance, and shall be willing to release the lands so purchased by the Commissioners therefrom, then and in such case it shall be lawful for the party entitled by this Act or capacitated to apportion such rent, payment or incumbrance, or to release the land so purchased therefrom, with the consent of the

owner of the lands so purchased, and also of the owner of the lands so purchased as aforesaid, from the rent, payment or incumbrance so affecting the same as aforesaid, jointly with other lands, on condition or in consideration of such other lands continuing or remaining wholly and exclusively subject to the whole of such rent, payment or incumbrance: Provided also, That when any of the lands purchased by the Commissioners shall be released from a part only of any rent, payment or incumbrance; affecting the same, jointly with other lands, by the Commissioners, such last-mentioned lands shall be charged only with the remainder of such rent, payment or incumbrance; and such apportionment shall not prejudice the title to the remaining rent, or the remedies for such remainder, but the same shall at all times thereafter remain as effectual as if the lands not so purchased had been originally charged with that amount only: Provided also, That when a part of any rent, payment or incumbrance shall be released, it shall be lawful for the Commissioners, on tender for that purpose, by any deed or instrument creating or transferring the remainder of such rent, payment or incumbrance, to indorse a memorandum on such deed or instrument, declaring what part of the lands only subject to such rent, payment or incumbrance shall have been purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance which shall continue payable; and such memorandum shall be evidence in all courts of the facts therein stated, but shall not exclude any other evidence of the same facts.

36. Rents on leases to be apportioned.

And be it Enacted, That in all cases in which a part only of any lands comprised in any lease or agreement for lease for a term of years unexpired, or for a life or lives, or for a term determinable on a life or lives, shall be required for the purposes of this Act, the rent payable in respect of any lands comprised in such lease or agreement for lease shall be apportioned between the lands required for the purposes of this Act and the residue of such lands; and such apportionment shall, in case the same shall not be settled by agreement between the parties, be ascertained and settled by the verdict of a Jury, if required, in like manner as the price of any lands to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof; and in case such apportionment shall be settled by agreement between the parties, such agreement shall be made with, and not be valid without, the consent and approbation of the lessor from whom such lands are holden or agreed to be holden; and any person hereby capacitated to sell, who shall be a lessor, shall be capacitated to assent and to bind the property in respect of such assent; and after such apportionment the tenant or lessee of the lands comprised in such lease or agreement for lease shall, as to all future accruing rent, be liable only to so much of the

rent

rent reserved in such lease or agreement for lease as shall have been apportioned in respect of the lands not required for the purposes of this Act; and the lessor of the said lands shall have all such and the same remedies for rent so apportioned in respect of the lands not required for the purposes of this Act, as before such apportionment he had or was entitled to in respect of the rent reserved or agreed to be reserved in such lease or agreement for lease; and such apportionment shall not prejudice or affect any of the covenants, conditions or agreements in such lease or agreement for lease contained, so far as the same relate to the lands comprised in such lease or agreement for lease, and not required for the purposes of this Act; but the same shall, as to such last-mentioned lands, but not further or otherwise, continue in full force and operation.

37. Mortgagees to convey.

And be it Enacted, That all bodies politic, corporate and collegiate, trustees, and all other persons having any mortgage on any lands which shall be required to be taken for the purposes of this Act (and whether entitled thereto in their own right or in trust for any other body or person, and whether in possession of such lands by virtue of such mortgage, or not, and whether such mortgage shall affect such lands solely or jointly with any other lands which shall be so required), shall, on payment or tender by the Commissioners, or by any person by them authorized, of the principal money and interest due on such mortgage, and the just costs (if any) then due, together with the amount of Six calendar Months' interest on the said principal money (which tender and payment the Commissioners are hereby authorized to make, and to deduct the same from any sum agreed or directed to be paid for the estate or interest of the party entitled to the equity of redemption) of and in the lands so mortgaged, in case the same shall be sufficient for the purpose, immediately convey, assign and transfer the respective interests of such mortgagees in the lands which shall be so required by the Commissioners; or in case such mortgagees shall have notice in writing from the Commissioners, or from the party entitled to the equity of redemption, of and in the same lands, that they will pay off the principal money and interest which shall be due on such mortgage at the end of Six or less number of calendar Months, to be computed from the day of giving such notice, then at the end of Six or less number of calendar Months, on payment or tender by the Commissioners of the principal and interest, which would become due at the end of Six calendar Months from the time of giving such notice, together with any just costs then due, such mortgagees shall convey, assign and transfer their respective interests in the lands which shall be so required for the purposes of this Act to the Commissioners, their successors and assigns, or as they shall direct; and in case any such mortgagee shall refuse to convey, assign or transfer as aforesaid, on such payment or tender respectively as

aforesaid, then, on payment of such money, interest and costs, into the Court of Chancery as hereinafter mentioned, all interest on every such mortgage debt, and all claim and right of every such mortgagee thereto, shall henceforth cease and determine: Provided always, That in case any such mortgagee shall in either of the cases aforesaid neglect or refuse to convey, assign or transfer as aforesaid, then upon payment of the principal money and interest, and the costs (if any) due on any such mortgage as aforesaid, into the Bank of England, at the end of Six calendar Months from the time of giving such notice as aforesaid, or as soon after as possible, or in lieu of such notice, and in addition to the said other monies, of Six calendar Months' interest in advance, for the use of such mortgagee, at any time after tender of the principal, interest and costs, and Six calendar Months' interest in advance as aforesaid, the Cashier of the said Bank shall give a receipt for the said money, in like manner as is by this Act directed in cases of other payments into the said Bank; and thereupon, or upon such conveyance, assignment or transfer by any such mortgagee as aforesaid, all the estate, right, title, interest, use, trust, property, claim and demand of such mortgagee, and of all persons in trust for him, or for whom he shall be trustee, shall vest in the Commissioners, their successors and assigns, who shall be deemed to be in the actual possession of the premises and estate comprised in such mortgage, or so much thereof as shall be required for the purposes of this Act, to all intents and purposes whatsoever.

38. As to cases where mortgage-money is more than the value of the premises, or a part only of the premises is taken.

And be it Enacted, That in all cases in which any lands, subject to any mortgage, shall be required for the purposes of this Act, which lands shall be of less value than the principal monies, interest and costs secured thereon, or in which a part only of the lands subject to any mortgage shall be required for the purposes of this Act, and such part shall be of less value than the principal monies, interest and costs secured on such lands, and the mortgagee thereof shall not consider the remaining part of such lands to be a sufficient security for the monies charged thereon, or shall not be willing to release the part required for the purposes of this Act from the principal or mortgage money, and all interest due and to become due thereon, and all costs, the value of such lands, or, as the case may, be of such part of the said lands as shall be so required for the purposes aforesaid, and also the compensation (if any) for any damage done in respect of the parts so required, shall be settled and agreed upon by and between such mortgagee and the body or person entitled to the equity of redemption of such lands, whether absolutely or for such estate as might capacitate them or him to convey, for the purposes of this Act on the one part, and the Commissioners on the other part; and in case of any difference between them, then such value

and

and compensation shall be determined by the verdict of a Jury, in the same manner as in other cases of difference; and the amount of such value and compensation, being so agreed upon or determined as aforesaid, shall be paid to such mortgagee in satisfaction of his claim, so far as the same will extend; and such mortgagee shall thereupon convey, assign and transfer all his interest in such mortgaged lands, the value whereof shall so have been agreed upon or determined as aforesaid; or in case of his neglecting or refusing to convey, assign or transfer as hereinbefore directed, then the amount of such value and compensation shall be paid into the Bank of England to the credit of the said mortgagee, as by this Act is provided in cases of a like nature; and such payment to the mortgagee or into the Bank as last aforesaid shall be accepted in satisfaction of the claim of such mortgagee, so far as the same will extend; and also in full discharge and exoneration of such part of the mortgaged premises as shall be so taken or used from all principal and interest and other money due or secured thereon; and thereupon such mortgaged lands shall become absolutely vested in the Commissioners, their successors and assigns, who shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever: Provided nevertheless, That all mortgagees shall have the same powers and remedies for recovering or compelling payment of their mortgage money, or the residue thereof (as the case may be), or the interest thereof respectively, upon and out of the residue of the mortgaged lands not required for the purposes aforesaid, as they would have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage: Provided also, That when a part only of the lands (subject to any mortgage) shall have been taken for the purposes of this Act as aforesaid, and the value of the lands so taken shall, on the assignment or conveyance thereof to the Commissioners, have been paid to the mortgagee thereof in part satisfaction of his mortgage debt, a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage at the time of executing such assignment or conveyance, and shall be signed by such mortgagee; and a copy of such memorandum shall at the same time (if required) be furnished by the Commissioners to the person so entitled as aforesaid to the equity of redemption of the lands comprised in such mortgage deed.

39. Tenants at will or from year to year to quit after notice.

And be it Enacted, That every tenant at will, or lessee for a year, or any other person in possession of any such lands, or any part thereof, which shall be purchased by virtue of this Act, or vested in the Commissioners for the purposes aforesaid, who shall have no greater interest in the premises than as tenant at will or lessee for a year, or from year to year, shall, at the end of Six calendar Months

next after notice in writing, signed by the said Commissioners, shall have been given to him, or left at the premises which are the subject of such notice, and whether such notice be given with reference to the time of such tenant's holding or not, quit and relinquish the said premises unto the Commissioners, or to such person as shall be by them authorized to receive possession thereof; and in case any such lessee shall be compelled to quit before the expiration of his term or interest in any such premises, then and in such case the Commissioners shall give satisfaction and compensation for the loss or damage which he shall sustain thereby; and in case of any difference as to the amount of such satisfaction and compensation, the same shall or may be settled and ascertained by a Jury in the same manner as the sums of money to be paid for the purchase of any lands, as hereinbefore directed to be ascertained; or if the Commissioners and the other parties in difference shall agree, the same may be settled by a reference to the award of arbitrators, to be chosen by the parties in difference; and that all bodies and persons in possession of any lands or any part of any lands which shall or may be purchased in pursuance of this Act by the Commissioners, or vested in them for any of the purposes aforesaid, shall, upon tender or payment as aforesaid of such recompense or satisfaction for his or their term, estate or interest in the premises, as shall be mutually agreed upon, or as shall be settled, ascertained and awarded by any Referee or Umpire, or by verdict or inquisition of a Jury in manner aforesaid, quit and relinquish the said premises so in their respective possessions, unto the Commissioners or to such person as shall be by them authorized to receive possession of the same; and all the leases, demises, contracts and agreements whatsoever under or by virtue whereof any such body or person shall hold the said premises, shall at and from the end and expiration of Six calendar Months, or upon such payment or tender as aforesaid, be absolutely void and of none effect, as against the Commissioners, their successors and assigns; and if any such tenant at will or lessee, or other body or person as aforesaid, shall refuse or neglect to deliver up the premises in his or their possession at the expiration of such Six calendar Months, or upon such payment or tender as aforesaid, it shall be lawful for any Justice of the Peace for the county of Middlesex, city of London, or the city and liberty of Westminster, to issue his precept or warrant to the constables of the said county, or any of them, or to any person to be by such Justice appointed a constable for that especial purpose, commanding and requiring such constable to cause possession of the said premises to be taken, and afterwards delivered to such person as shall in such precept or warrant be nominated to receive the same by the Commissioners; and the said constable is thereupon hereby authorized and required to cause such possession to be taken and delivered accordingly.

And

40. Persons authorized to sell may refer to Arbitrators to fix the price.

And be it Enacted, That all bodies and persons hereby capacitated to sell, and who may not agree with the Commissioners as to the price to be paid, may, if they shall think fit, agree with the Commissioners to refer it to any person to ascertain the amount to be paid; and every such agreement shall be in all respects binding and effectual.

41. Power to clear the ground and sell old materials.

And be it Enacted, That it shall be lawful for the Commissioners and they are hereby empowered to pull down or cause to be pulled down all houses and other erections and buildings which shall be purchased by virtue of this Act, or such of them or such part thereof as they shall think proper to be pulled down, and to level and clear the ground whereon the same shall stand, and all other the ground to be purchased by virtue of this Act, in such manner as they shall think proper, and to sell or cause to be sold the materials of the houses and other buildings to be taken down and removed pursuant to this Act; and the monies to be produced by the sale thereof, after deducting the expenses in pulling down such houses and buildings respectively, and of such sale, and also the rents and profits of such tenements to be purchased or taken by virtue of this Act until the same shall be pulled down or cleared, shall be applied and disposed of for or towards the purposes of this Act.

42. The Commissioners empowered to make bye-laws.

And be it Enacted, That the Commissioners shall have full power and authority from time to time to make such bye-laws, orders and rules as to them shall seem expedient for the government of their officers and servants, and for the regulation, ordering and management of the said Terrace, Roadway Communications and Embankments, for closing the same for repairs, for the admission or exclusion of any particular description of carriages, and generally for rendering the same conducive to the enjoyment and accommodation of the public; and from time to time to alter or repeal such bye-laws, orders and rules or any of them, and to make others, and to impose and inflict such reasonable fines and forfeitures upon all persons offending against the same as to the Commissioners shall seem meet, not exceeding the sum of *Five Pounds* for any one offence; such fines and forfeitures to be levied and recovered as any penalty may by this Act be levied and recovered; which said bye-laws, orders and rules, being reduced into writing under the common seal of the Commissioners, shall be printed and published; and such bye-laws, orders and rules, except such as shall relate solely to any of the officers or servants of the Commissioners, shall be exhibited in some conspicuous place or places on the said Terrace, Roadway Communications and Embankments, and shall from time to time be renewed as often as the same or any part thereof shall be obliterated or destroyed; and such bye-laws, orders and rules, when so

published and exhibited, shall be binding upon and be observed by all persons, and shall be sufficient in all courts of law or equity to justify all persons who shall act under the same ; provided that such bye-laws, orders or rules be not repugnant to the laws of England or to any directions in this Act contained.

43. Penalty on persons defacing boards.

And be it Enacted, That if any person shall, except by the direction of the Commissioners, wilfully pull down, remove, deface or destroy any board whereon any rules, orders or bye-laws shall have been painted according to the direction of this Act, or shall concur or aid therein, he shall, on conviction, forfeit and pay a sum not exceeding *Five Pounds* for every offence.

44. Commissioners empowered to make piers and landing-places.

AND whereas the number of steam-boats navigating the River Thames and carrying passengers between Westminster and Blackfriars Bridges has of late years greatly increased, and the piers and landing-places now in use for embarking and disembarking such passengers are insufficient for the purpose, and are for the most part inconvenient and unsafe, and numerous accidents and frequent loss of life have arisen from the crowded state and insecure construction of such piers and landing-places, and it is essential to the safety of the numerous passengers using steam-boats, and persons resorting to the piers and landing-places, that more secure and convenient piers and landing-places than now exist should be constructed under the direction of the said Commissioners in connexion with the said Terrace, Roadway and Embankments hereinbefore authorized to be made by them; BE it therefore Enacted, That it shall be lawful for the said Commissioners to construct and erect such and so many piers, stairs and landing-places by the side of the said intended Terrace, Roadway and Embankments, and of such width, extent and dimensions, and of such materials, and in such several situations, as they shall judge best adapted for the safe and commodious embarking and disembarking of passengers by steam-boats and other boats; and from time to time to make such rules and impose such restrictions in the use of the said several piers, stairs and landing-places, as they shall judge necessary for the better ordering and regulation thereof, and for the safety and convenience of the public.

45. Tolls to be taken by Commissioners,

AND for the purpose of providing a fund to pay for the construction of the said several piers, stairs and landing-places, and for the future repair and maintenance of the same, and for the repair and maintenance and proper keeping, paving, watering, watching and lighting of the said Terrace, Roadway Communications and Embankments, and preserving the same in good order for the use and recreation of the public, and for the proper cleansing of

of the bed and shore of the River on the inner side of the said Terrace, Roadway and Embankments; BE it Enacted, That it shall be lawful for the Commissioners, their collectors, officers or servants, to demand, receive and recover from the Master of every steam-boat and other passage-boat or vessel for or in respect of every passenger landing on or embarking from any of the said piers, stairs or landing-places to be made by the said Commissioners, a Toll not exceeding *One Penny*.

46. Power to reduce the Toll.

And be it Enacted, That it shall be lawful for the Commissioners, with the consent of the Lord High Treasurer, or the Commissioners for executing the office of Lord High Treasurer of the United Kingdom, or any *Three* of them, from time to time, as they shall think fit, to reduce the Toll by this Act authorized to be taken, and afterwards from time to time again to raise the same, so that the same shall not at any time exceed the amount of *One Penny* for every passenger.

47. Recovery of Tolls.

And be it Enacted, That the Toll hereby authorized to be taken shall be paid to such person, at such places, upon or near the said piers, stairs and landing-places, and in such manner and under such regulations as the Commissioners shall direct or appoint; and in case of refusal or neglect on demand to pay such Tolls as may have accrued due unto the respective persons appointed to receive the same as aforesaid, it shall be lawful for the Commissioners or the person appointed to receive the same, to levy and recover the same by distress and immediate sale of the goods or other property belonging to the person liable and refusing or neglecting to pay, rendering the overplus (if any) which shall remain after payment of the said Tolls, and the costs and expenses of such distress and sale, to the person whose goods or property were so distrained; or in case such unpaid Tolls shall amount to or exceed the sum of it shall be lawful for the Commissioners, their farmers or lessees, to sue for and recover the same by an action of debt or upon the case in any of Her Majesty's Courts of Record.

48. The Commissioners empowered to lease the Tolls.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to let all or any of the Tolls by this Act made payable upon the whole or any of the piers, stairs and landing-places to be erected in connexion with the said Terrace, Roadway and Embankments to any corporation or person, for any term which they shall think proper, not exceeding Seven Years; and every such lease shall be valid, and the respective lessees thereof, and also such persons as such lessees shall appoint to collect and receive the Tolls so let, shall, during the continuance of such lease, be deemed collectors of the Tolls so let, but for the use of the lessees thereof, and

shall have the same powers and authorities for collecting and recovering the same, and be subject to the same rules and penalties as if they had been appointed for that purpose by the Commissioners.

49. The Commissioners may appoint Patrols and Watchmen.

And be it Enacted, That the Commissioners may and they are hereby empowered, from time to time, as they shall see occasion, to appoint such number of fit and able-bodied men as they shall think proper, to be armed and clothed in such manner as the Commissioners shall direct, to be employed as Watchmen, Guards or Patrols upon the said Terrace, Roadway Communications and Embankments, and piers, stairs and landing-places, and to appoint any person or persons to be Superintendent or Superintendents thereof; and from time to time to remove any of the said Superintendents, Watchmen, Guards or Patrols, and to appoint others in their room; and from time to time to make such rules, orders and regulations for governing the Superintendents, Watchmen, Guards or Patrols, and for watching and guarding the said Terrace, Roadway Communications and Embankments, and piers, stairs and landing-places, and keeping the peace thereon, as the Commissioners shall think proper.

50. Duties of Patrols and Watchmen.

And be it Enacted, That the persons who shall be so appointed as aforesaid shall use their best endeavours to prevent crimes, outrages, misdemeanours and disorders on the said Terrace, Roadway Communications and Embankments, and piers, stairs, and landing-places, or near or adjoining thereto; and to that end they are hereby jointly and severally appointed and required, without any warrant, to arrest, apprehend and detain all malefactors, rogues, vagabonds and other disorderly and suspicious persons, who shall be found committing any nuisance, disorder or offence, or loitering or misbehaving, or whom any of the persons who shall be so appointed as aforesaid shall have just cause or reason to suspect of any evil design, and the persons so apprehended to convey, as soon as conveniently may be, before one or more of Her Majesty's Justices of the Peace for the county of Middlesex, the city of London, or the city and liberty of Westminster, to be examined and dealt with according to law.

51. Watchmen, &c., vested with powers of Constables.

And be it Enacted, That all the said Watchmen and Patrols shall be sworn in as Constables before the Commissioners of the Metropolitan Police, or one of them, who are and is hereby required to swear them in accordingly; and such Watchmen and Patrols shall act as Constables whilst in the service of the said Commissioners, and they are hereby invested with the like powers, privileges and protection as any Constable or Constables is or are invested by law.

And

52. Owners of vessels liable for damage.

And be it Enacted, That in case any damage or mischief shall be done to the said Terrace, Roadway Communications or Embankments, or any of the Works constructed under the authority of this Act, by any ship, lighter, barge, boat, float, raft or vessel, through the negligence of any person having the command or navigation of any such ship, lighter, barge, boat or other vessel, or any of the men employed therein, then and in every such case the owner of such ship, lighter, barge, boat or other vessel, shall be and is hereby made answerable to the Commissioners for the amount or value of any such damage or mischief; and the same, provided it shall not exceed the sum of Twenty Pounds, if not forthwith paid and satisfied, shall and may be recovered in such manner as penalties and forfeitures hereby imposed are in and by this Act directed to be recovered.

53. Masters to recover from their servants any sum paid for their defaults.

And be it Enacted, That in case the owner of any such ship, lighter, barge or other vessel shall be compelled to pay any penalty, or to make satisfaction for damages, by reason of any negligence or default of his servants, boatmen, bargemen or mariners, such servants, boatmen, bargemen or mariners respectively who shall have been guilty of such negligence or default shall be liable to pay such penalty or damage (with the costs thereof) to such owner; and in case of non-payment on demand thereof, and oath made by such owner of the payment made by him of such penalty, satisfaction or damages, and that the same and the costs thereof have not been repaid to him by such servants, boatmen, bargemen or mariners, or any of them, although demanded, (such oath to be made before any one or more Justice or Justices of the Peace of the county or place where such penalty or satisfaction shall have been recovered from or paid by the owner), the amount thereof, provided the same shall not exceed the sum of Twenty Pounds, shall be recovered in the same manner as any penalty is hereby directed to be recovered.

54. Penalty on assaulting Collectors, &c.

And be it Enacted, That in case any person shall resist or make forcible opposition against any person employed in the due execution of this Act, or shall assault any Surveyor, Engineer or agent, or any Collector of Tolls, in the execution of his office, every such person shall for every such offence forfeit and pay any sum not exceeding Five Pounds.

55. Penalty for injuries or obstructions to the Roadway, &c.

And be it Enacted, That if any person shall wilfully injure, break, damage, throw down, deface or destroy any part of the said Terrace, Roadway Communications or Embankments, piers, stairs and landing-places, or the balustrades thereof, or any bench, seat or other article or thing, in or upon or connected therewith, or any lamp-post or lamp, or the furniture of any lamp thereon, or extinguish any lamp when lighted, or if any person shall occasion any

obstruction, annoyance or hindrance of any description to passengers along the said Terrace, Roadway Communications or Embankments, or landing or embarking at the said piers, stairs and landing-places, he shall forfeit and pay for every such offence any sum not exceeding Five Pounds, and shall also make satisfaction to the Commissioners, or to such person as they shall appoint to receive the same, or to the party injured, for any damage done; which satisfaction shall be recovered in the same way as penalties are by this Act authorized to be recovered; and if any such injury as aforesaid shall be done by accident and unintentionally, the person doing or causing the same shall make satisfaction to the party injured, to be recovered in the same manner as penalties are by this Act directed to be recovered.

56. Rubbish not to be thrown on the Terrace or into side channels or docks.

And be it Enacted, That if any person shall empty or throw any soil, dung, dust, dirt, ashes or stones upon the said Terrace, Roadway Communications and Embankments, piers, stairs and landing-places, or any part thereof respectively, or into any of the side channels or docks connected therewith, or any of the entrances thereto or sluices thereof, or shall suffer any soil, drainage or other filthy matter to run into or upon the same, every person so offending shall for every such offence forfeit and pay any sum not exceeding *Five Pounds.*

57. Owners of vessels not to make fast to the Roadway.

And be it Enacted, That if any person shall make fast any barge, boat or other vessel to any part of the said Terrace, Embankments, piers, stairs or landing-places (other than at such places and under such regulations as shall be allowed by the Commissioners), every such person shall for every such offence forfeit and pay any sum not exceeding *Five Pounds*, besides damages.

58. Indictments, informations, &c., how to be preferred or instituted.

And be it Enacted, That in all indictments, informations or legal proceedings whatsoever to be preferred, instituted or carried on against any person for taking, stealing or embezzling, or for destroying, damaging or injuring, removing or carrying away, any goods, chattels or property of or belonging to the Commissioners, or any goods, chattels or property in their custody or possession, or in the custody or possession of any officer or servant of the Commissioners for or on behalf of the said Commissioners, and in all indictments, informations or legal proceedings whatsoever of or concerning such goods, chattels or property respectively, it shall be sufficient to describe and refer to such goods, chattels and property respectively, as the goods, chattels and property of the Commissioners; and in case the same shall have been feloniously taken, stolen or embezzled, or removed or carried away, to allege that the same were so feloniously taken, stolen, embezzled or removed or carried away (as the

the case may be) from the Commissioners; and it shall be sufficient on the trial or hearing of any such indictment, information or other legal proceeding, to prove that at the time when such goods, chattels and property respectively were so feloniously stolen, taken or embezzled, or so damaged, destroyed or injured, or removed or carried away, or when other the matter or thing complained of in such indictment, information or other legal proceeding took place, such goods, chattels and property were in or on the said Terrace, Roadway Communications or Embankments, piers, stairs or landing-places, or in the custody or possession of some officer or servant of the Commissioners for and on behalf of the Commissioners, without any other proof of property.

59. Damages and charges in case of dispute to be settled by Two Justices.

And be it Enacted, That in all cases wherein damages or charges are by this Act directed or authorized to be paid, and the manner of ascertaining the amount thereof is not specified or provided for, such amount, in case of non-payment thereof or of any dispute respecting the same, shall be ascertained and determined by some Two or more Justices of the Peace for the city and liberty of Westminster, city of London, or county of Middlesex (such Justices not being interested in the matters in question); and where by this Act any damages or charges are directed to be paid in addition to any penalty for any offence, the amount of such damages and charges, in case of non-payment thereof, or of any dispute respecting the same, shall be settled and determined by the Justice or Justices by or before whom any offender shall be convicted of such offence; and such Justices respectively are hereby authorized and required, on non-payment of the damages in any of the cases aforesaid, to levy such damages and charges by distress and sale of the offender's goods and chattels, in manner by this Act directed for the levying of any penalties or forfeitures.

60. Recovery and application of penalties.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act, or by virtue of any bye-law, rule or order to be made in pursuance of this Act (the manner of levying and recovering whereof is not herein otherwise particularly directed), may, in case of non-payment thereof, be recovered in a summary way by the order or adjudication of some Justice of the Peace for the city and liberty of Westminster, city of London or county of Middlesex, on complaint to him for that purpose made, and afterwards be levied, as well as the costs (if any) of such proceedings, on non-payment, by distress and sale of the goods and chattels of the respective offenders or persons liable to pay the same, by warrant under the hand and seal of such Justice, and the overplus (if any) of the money so received or recovered, after discharging such penalty or forfeiture, and the costs and expenses as aforesaid, shall be

returned on demand to the party whose goods or chattels shall be distrained; all which penalties and forfeitures not herein directed to be otherwise applied shall be paid to the Commissioners; and in case such penalties and forfeitures shall not be forthwith paid, it shall be lawful for such Justice, and he is hereby required, to order the offender so convicted to be detained in safe custody until return can conveniently be made to such warrant of distress, unless such offender shall give sufficient security, to the satisfaction of such Justice, for his appearance before such Justice or before some other Justice of the Peace having jurisdiction at such time as shall be appointed for the return of such warrant of distress, such time being not more than Eight Days from the taking of such security, and which security any such Justice is hereby empowered to take by way of recognizance or otherwise; but in case, upon the return of such warrant, it shall appear that sufficient distress could not be had whereupon to levy the said penalties or forfeitures and such costs and expenses as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justice, upon the confession of the offender or otherwise, that he hath not sufficient goods and chattels whereupon such penalties, forfeitures, costs and expenses could be levied if a warrant of distress should be issued (in which last-mentioned case such Justice shall not be required to issue such warrant of distress), then and in either of such cases such Justice is hereby required, by warrant under his hand and seal, to commit such offender to some common gaol or house of correction for the county or place within his jurisdiction, there to remain for any time not exceeding Three calendar Months, or until such penalty or forfeiture shall be sooner paid and satisfied, together with all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, or until such offender shall otherwise be discharged by due course of law.

61. Justices may proceed by summons in the recovery of penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before any Justice of the Peace, it shall be lawful for the Justice of the Peace before whom any complaint shall be made for any offence committed against this Act, or against any bye-law, order or rule made in pursuance hereof, to summon before him the party complained against, and on such summons to hear and determine the matter of such complaint, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed in the recovery of the same, although no information in writing or in print shall have been exhibited before such Justice; and all such proceedings by summons, without information in writing or in print, shall be as valid and effectual to all intents and purposes as if an information in writing or in print had been exhibited.

And

62. For securing offenders whose names and residences are unknown.

And be it Enacted, That it shall be lawful for any officer or servant of the Commissioners, and all such persons as he shall call to his assistance, to seize and detain any person whose name and residence shall be unknown to such officer or servant, and who shall commit any offence against this Act, and to convey him before some Justice of the Peace for the county of Middlesex, the city of London or the city and liberty of Westminster, without any other warrant or authority than this Act, and such Justice is hereby empowered and required to proceed to the hearing and determining of the complaint.

63. Information and Conviction.

And be it Enacted, That all Justices of the Peace before whom any person shall be informed against or convicted for or in respect of any offence against this Act, may cause the information (whenever an information shall be taken in writing or in print) and the conviction respectively to be drawn up according to the following forms, or any other forms to the same effect, as the case may require; (that is to say)

Form of Information.

to wit. } "BE it Remembered, That on the day of A. B. of informeth me, C. D., one of Her Majesty's Justices of the Peace for the county [or, city, as the case may be], that E. F. of [here describe the offence, and the time and place where committed] contrary to an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, [here insert the title of this Act], which hath imposed a penalty of for the said offence. Taken the day of before me,

"C. D."

Form of Conviction.

to wit. } "BE it Remembered, That on the day of in the year of our Lord A. B. is convicted before me, C. D., one of Her Majesty's Justices of the Peace for the county [or, city] of [here describe the offence, and the time and place when and where committed], contrary to an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, [here insert the title of this Act]. Given under my hand and seal the day and year first above written.

"C. D."

64. Distress not unlawful for want of form.

And be it Enacted, That where any distress shall be made for any money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in

the summons, conviction, warrant of distress or other proceeding relating thereto ; nor shall such party be deemed a trespasser ab initio on account of any irregularity which shall be afterwards committed by him ; but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action upon the case.

65. Proceedings not to be quashed for want of form.

And be it Enacted, That no proceeding to be had or taken in pursuance of this Act shall be quashed or vacated for want of form, or be removed by certiorari, or by any other writ or proceeding whatsoever into any of Her Majesty's Courts of Record at Westminster, or elsewhere, any law or statute to the contrary notwithstanding.

66. Persons aggrieved may appeal to Quarter Sessions.

And be it Enacted, That all persons who may think themselves aggrieved by any order, judgment or determination of any Justice of the Peace relating to any matter or thing in this Act mentioned or contained, may, within *Four* calendar Months next after such order, judgment or determination shall have been made or given, appeal to the Justices of the Peace at any General or Quarter Sessions to be held for the county of Middlesex, first giving *Ten* Days' notice in writing of such intention to appeal, and of the grounds and nature thereof, to the party against whom such complaint is intended to be made, or to the Commissioners (as the case may be) ; and forthwith after such notice (in the case of an individual appealing) entering into recognizance, before some Justice of the Peace, with Two indifferent sureties, conditioned to try such appeal and abide the order and award of the said Court thereon ; and the said Justices shall, in a summary way, either hear and determine the said complaint at such General or Quarter Sessions, or, if they think proper, may adjourn the hearing thereof to the following General or Quarter Sessions of the Peace to be held for such county ; and the said Justices may, if they see cause, mitigate any penalty or forfeiture, and may order any money to be returned which shall have been levied in pursuance of such order or determination, and may also order any such further satisfaction to be made to the party injured as they shall judge reasonable ; and may also order such costs to be paid to the party aggrieved by the party aggressing as they shall think reasonable.

67. General power to Justices to administer Oaths.

And be it Enacted, That in all cases in which any Justice of the Peace is authorized by this Act to examine any person, or to take cognizance of or to hear or determine any matter or complaint, it shall be lawful for such Justice, and he is hereby required, to administer an oath to or receive the affirmation of any person before he shall be examined by or before such Justice.

And

68. For compelling Witnesses to attend.

And be it Enacted, That if any person who shall be summoned as a witness to attend and give evidence before any Justice of the Peace touching any matter or fact contained or involved in or affecting any information or complaint for any offence committed against this Act, either on the part of the prosecutor or on the part of the party summoned or accused, shall refuse or neglect to appear at the time and place to be for that purpose appointed, having been paid or tendered a reasonable sum for his costs and expenses, without a reasonable excuse for his refusal or neglect, or appearing shall refuse to be examined upon oath, or in case of a Quaker or separatist on affirmation, to give evidence before such Justices, then and in either of the said cases every such person shall forfeit and pay any sum not exceeding Five Pounds for every such offence.

69. Officers of the Commissioners may be Witnesses.

And be it Enacted, That no person shall be deemed incompetent to give evidence, or be disqualified from giving testimony or evidence in any action, suit, prosecution or other legal proceedings to be brought or had in any court of law or equity, or before any Justice of the Peace, under or by virtue of this Act, by reason of being a Collector of Tolls, Secretary, Clerk, Engineer or other officer or servant of the Commissioners, nor shall such testimony or evidence for any of the reasons aforesaid be rejected or liable to be questioned or set aside.

70. Authenticated Bye-laws to be Evidence.

And be it Enacted, That in all cases of prosecutions for offences against the bye-laws, rules or orders of the Commissioners, the production of a written or printed paper, purporting to be the bye-laws, rules or orders of the Commissioners, and authenticated by having the common seal of the Commissioners affixed thereto, shall be evidence of the existence and of the due making of such bye-laws, rules or orders; and it shall be sufficient to prove that a printed or painted copy of such of the said bye-laws, rules or orders as shall subject any person to any fine or penalty, hath been published and exhibited in manner by this Act directed, and in case of its being afterwards displaced or damaged, hath been replaced as soon as conveniently might be, unless proof shall be adduced by the defendant that such printed or painted copy is not a true copy of such bye-laws, rules or orders, or hath not been duly exhibited in manner by this Act directed.

71. Limitation of Actions.

And be it Enacted, That no action, suit or information, nor any other proceeding of what nature soever, shall be brought, commenced or prosecuted against any person or corporation for any thing done or omitted to be done in pursuance of this Act, or in the execution of the powers or authorities, or any of the orders made, given or directed in, by or under this Act, unless *Twenty* Days'

Days' previous notice in writing shall be given by the party intending to commenee and prosecute such action, suit, information or other proceeding, and shall be brought or commenced within Six calendar Months after the act committed, or in case there shall be a continuation of damage, then within Six calendar Months next after the doing or committing such damage shall have ceased, nor unless such action, suit or information shall be laid and brought in the county or place where the matter in dispute or cause of action shall arise; and the defendant in such action, suit or information, or other proceeding, may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the acts done or omitted to be done were done or omitted to be done in pursuance of or by the authority of this Act; and if they shall appear to have been so done or to have been so omitted to be done, or if it shall appear that such action, suit, information or other proceeding shall have been brought otherwise than as hereinbefore directed, then and in every such case the jury shall find for the defendant; upon which verdict, or if the plaintiff shall become nonsuited or shall suffer a discontinuance of his action, suit, information or other proceeding after the defendant shall have appeared thereto, or if a verdict shall pass against the plaintiff therein, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall have his costs, and shall have such remedy for recovering the same as defendants have for recovering costs of suit by law in other cases.

72. Plaintiff not to recover after tender of amends.

And be it Enacted, That no plaintiff shall recover in any action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the court where such action shall depend, at any time before issue joined, to pay into court such sum of money as he shall think fit, whereupon such proceedings, order and adjudication shall be had and made in and by such court as in other actions where defendants are allowed to pay money into court.

73. Materials, &c. vested in the Commissioners.

And be it Enacted, That the right and property of all and every the engines, materials, implements, utensils, articles, matters and things whatsoever, which may be erected, set up, or provided by the Commissioners, or by their order or otherwise, belonging to and used by them for carrying the purposes of this Act into execution, and also any materials which formed part of any building which may be pulled down by direction of the Commissioners in pursuance

ance of the powers of this Act, shall be vested in the Commissioners, and they are hereby authorized and empowered to dispose of and apply the same for the purposes of this Act as they shall think fit, and to bring any action or actions, and to prefer and prosecute with effect any Bill or Bills of Indictment against any person or persons who shall steal, secrete, injure, damage or dispose of the same, or any of them respectively, to their own use and uses, or shall disturb them, the Commissioners, or their officers, or other persons acting under them, in the possession thereof.

74. The Commissioners may bring actions for breach of contracts.

And be it Enacted, That in case any contract entered into, in pursuance of this Act, with the Commissioners, shall not be well and sufficiently performed according to the intent and meaning of such contract, then and in every such case the Commissioners may cause an action to be brought in any of Her Majesty's Courts of Law at Westminster against any such contractor or contractors, for any penalty contained in his contract; and on proof of the signing of the said contract, and non-performance thereof at the times or in the manner to be therein mentioned, the Commissioners shall be entitled to and shall recover the full penalty contained in any such contract, any law, custom or usage to the contrary in anywise notwithstanding; which penalty, when recovered, shall be applied to the purposes of this Act: Provided always, That it shall be lawful for the Commissioners, if they think fit, to compound and agree with any such contractor for any penalty incurred by him for the breach or non-performance of any such contract for such sum of money as the Commissioners shall think proper.

75. Deeds, &c. not liable to Stamp-duty.

And be it Enacted, That no contract, conveyance, assignment, lease, deed or other instrument, which shall be made, granted, or executed, under any powers or authorities hereby granted, nor the memorial of any such conveyance, assignment or lease, nor any contracts or agreements, bonds or other securities, assignments, conveyances, or other deeds or instruments, which shall be made, entered into, or executed by any person or persons to or with the Commissioners for any of the purposes of this Act, shall be subject or liable to any stamp-duty whatever imposed by any Act now in force, nor to any stamp-duty to be imposed by any future Act, unless such instruments be specially subjected and specifically charged in and by such future Act.

76. The Commissioners to render accounts of their receipts and expenditure from time to time to the Commis-

And be it Enacted, That the Commissioners shall from time to time render and give an account to the Commissioners for auditing the public Accounts of all monies which shall be raised or received by the Commissioners under or by virtue of the provisions of this Act, or by the sale of the materials of any houses or buildings to be pulled

sioners for auditing Public Accounts

pulled down and sold as aforesaid, or by any penalties, forfeitures or fines hereby inflicted or authorized to be imposed and directed to be paid to the Commissioners, and of all other monies which shall be received by them under or by virtue of the authority of this Act, and of the application of all such monies for the purposes of this Act; and every such account, when so rendered and given as aforesaid, shall be examined, tried and audited by the Commissioners for auditing the Public Accounts, pursuant to the provisions of the Acts for the time being in force for the better examining and auditing the Public Accounts of the Kingdom.

77. Punishing persons for giving false Evidence.

And be it Enacted, That all persons who, upon any examination to be taken by virtue of this Act, shall wilfully and corruptly give false evidence, or otherwise forswear themselves before any Jury or before any Justice of the Peace, acting as such in the execution of this Act, shall and may be prosecuted for the same, and upon conviction thereof shall be subject to such and the same pains and penalties as persons guilty of wilful and corrupt Perjury are by the laws in force subject and liable to.

78. Works to be completed within Two Years.

And be it Enacted, That in case the construction of the Terrace, Roadway Communications and Embankments hereby authorized to be made, shall not be commenced before the

and shall not be completed within the space of *Two* Years from the commencement thereof, then all the powers and authorities given by this Act shall thenceforth cease and determine.

79. The Commissioners exempted from personal responsibility.

And be it Enacted, That nothing contained in this Act or to be contained in any agreement, contract, lease, assignment, conveyance or other instrument entered into, made, taken or executed by the Commissioners or any of them in execution of the powers of this Act, shall extend to charge the persons or person of all or any of the Commissioners executing any such agreement, contract, lease, assignment, conveyance or other instrument, or the heirs, executors or administrators of the Commissioners or any of them, or their or any of their own proper lands, tenements, goods or chattels, with or for the performance of all or any of the covenants, conditions or agreements in the same agreement, contract, lease, assignment, conveyance or other instrument to be contained on the part of the Commissioners or any of them; but the amount of all sums, costs, charges, damages and expenses, which shall or may be recovered in any suit or suits at law or in equity against them, the Commissioners, or any of them, or against their or any of their heirs, executors or administrators, for or by reason or means of any such agreement, contract, lease, assignment, conveyance or other instrument, or the covenants, conditions or agreements therein contained, and also all the

the costs, charges, damages and expenses which the Commissioners or any of them, or their or any of their heirs, executors or administrators shall bear, pay, expend or be put to, or which shall be occasioned to them, for or by reason or means of any such agreement, contract, lease, assignment, conveyance or other instrument, or any covenant, condition or agreement therein contained, or any action or actions, suit or suits to be brought or prosecuted by or against them, or any of them, thereupon, shall respectively be paid and discharged by and out of the monies for the time being in their hands applicable to the purposes of this Act.

80. Powers of Metropolis Police Acts extended to this Act.

And be it Enacted, That all the clauses and provisions of an Act passed in the tenth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for improving the Police in and near the Metropolis," and of another Act passed in the second and third years of the reign of Her present Majesty, intituled, "An Act for further improving the Police in and near the Metropolis," shall extend and apply to this Act, and to the Terrace, Roadway Communications and Embankments, and the piers, stairs and landing-places to be made under the powers of this Act, and to the works, matters and things for the time being, in, upon, about or around the same, so far as such clauses and provisions are not repugnant to or inconsistent with the provisions of this Act.

81. Saving rights of Conservancy.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prohibit, defeat, alter or diminish any power, authority or jurisdiction, which, at the time of passing this Act, the Mayor, commonalty and citizens, or the Lord Mayor for the time being of the city of London, had or might lawfully use or exercise as Conservator of the River Thames.

82. Saving rights of Commissioners of Sewers.

And be it Enacted, That nothing in this Act contained shall extend to prejudice, diminish, alter or take away any rights, powers or authorities vested in the Commissioners appointed by any Commission of Sewers for the city and liberty of Westminster in the county of Middlesex and the city of London respectively, or for any parts of the said cities and county and the liberties thereof respectively.

83. Interpretation Clause.

And be it Enacted, That in the construction of this Act any word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "Lands," shall

extend to messuages, lands, tenements and hereditaments of any tenure, and to the bed and shore of the River Thames, covered or uncovered by the tidal waters; and the word "Corporation" shall be understood to mean any body politic, corporate or collegiate, civil or ecclesiastical, aggregate or sole; and where the expression "the Commissioners" is used, the same shall be understood to mean the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings incorporated for the purposes of this Act, unless in any of the cases aforesaid it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

84. Public Act.

And be it Enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

THE

THE SCHEDULE

To which the foregoing ACT refers.

DESCRIPTION.	OWNER.	CONSERVATORS.	LESSEES.	OCCUPIERS.
The bed and shore of the River Thames.	the Crown - - -	- - the Mayor and Commonalty and Citizens of the City of London.		
Piers, stairs, wing-walls and abutments of Westminster-bridge.	- - Commissioners of Westminster-bridge.	- - -	- - - -	the Public.
Messuage, tenement and hotel.	the Marine Society - -	- - -	William Nicholls -	William Nicholls.
Messuage or tenement	Colonel S. Long - -	- - -	- - T. W. Hearne, National Society.	the National Society.
Public way, Manchester-buildings.	- - Paving Commissioners of St. Margaret's, Westminster.	- - -	- - - -	- - Paving Commissioners of St. Margaret's, Westminster, and the Public.
Messuage or tenement	Colonel S. Long - -	- - -	- - the Rev. Peter G. Crofts, Charles Hindley, Joseph Cubitt.	Joseph Cubitt.
The garden of the Board of Control.	the Crown - - -	- - -	- - - -	the Crown.
Wharf, stable, offices and warehouse.	the Earl of Burlington -	- - -	William Yool - -	William Yool.
Wharf - - -	Nathaniel Saxon - -	- - -	- ditto - - -	Edward Loder.
Wharf and draw-dock	- - Executors of William Roby, deceased; Mrs. Baker, Mr. Frasnall.	- - -	- - - -	William Bent.
Garden - - -	the Crown - - -	- - -	John Irving - -	John Irving.
Garden - - -	- ditto - - - -	- - -	- - the Duke of Buccleugh and Henry Hoyle Oddie.	the Duke of Buccleugh.
Garden - - -	- ditto - - - -	- - -	Marquis of Ailsa -	Marquis of Ailsa.
Garden - - -	- ditto - - - -	- - -	Lord Prudhoe - -	Lord Prudhoe.
Garden - - -	- ditto - - - -	- - -	Sir J. E. Swinburn -	Sir Henry Hardinge.
Garden - - -	- ditto - - - -	- - -	Sir Robert Peel, bart.	Sir Robert Peel, bart.
Garden - - -	- ditto - - - -	- - -	Charles Martyn -	Charles Martyn.
Garden - - -	- ditto - - - -	- - -	Cuthbert Ellison -	Cuthbert Ellison.
Garden - - -	- ditto - - - -	- - -	the Earl of Pembroke	the Earl of Harrington.
Garden - - -	- ditto - - - -	- - -	Lady A. L. Conolly -	Henry Broadwood.
Garden - - -	- ditto - - - -	- - -	Viscount Gage -	Viscount Gage.
Garden - - -	- ditto - - - -	- - -	- - - -	the Crown.
Whitehall-stairs and causeway.	- ditto - - - -	- - -	- - - -	the Crown.
Garden - - -	- ditto - - - -	- - -	the Earl of Liverpool	the Earl of Liverpool.
Garden - - -	- ditto - - - -	- - -	- - - -	John Hanby.
Messuage or tenement	- ditto - - - -	- - -	- - - -	the Crown.
Public way, Whitehall-place.	- ditto - - - -	- - -	- - - -	- - the Commissioners for Paving Regent-street, and the Public.
Garden - - -	- ditto - - - -	- - -	- - Executors of J. Holroyd, deceased, W. M. Wyatt, Edward Wyatt Langley, David Bevan.	Alderman Thompson.
Garden - - -	- ditto - - - -	- - -	Sir Walter James -	Sir Walter James.
Stables, tenements, &c.	- ditto - - - -	- - -	- - - -	- - Messrs. Dalgleish and Tayler.
Messuages, tenements, wharf and draw-dock.	- ditto - - - -	- - -	- - - -	- ditto.

(*continued.*)

DESCRIPTION.	OWNER.	CONSERVATORS.	LESSEES.	OCCUPIERS.
Dock - - -	- - the Crown, and Duke of Northumberland.	- - -	- - - -	- - Messrs. Dalgleish and Tayler.
Tenements and wharf -	Duke of Northumberland -	- - -	Isaiah Jones - -	Isaiah Jones.
Messuages, tenements, wharf, &c.	- ditto - - - - -	- - -	- - Messrs. Lumley, J. Penny.	- - Messrs. Poynder and Medlicott. Messrs. Lumley. Messrs. Penny. Messrs. Weston & Co.
Messuage, tenement, and wharf and draw-dock.	- ditto - - - - -	- - -	- - - -	Messrs. Lumley. Messrs. J. Penny.
Hungerford-quay -	- - the Hungerford-market Company.	- - -	- - - -	- - the Hungerford-market Company.
Hungerford-stairs and causeway.	- - the Hungerford-market Company.			
Public way, Villiers-street.	- - Paving Commissioners of St. Martin-in-the-Fields.	- - -	- - - -	- - Paving Commissioners of St. Martin-in-the-Fields, and the Public.
Villiers-walk or terrace	- - William Stafford, Thomas Varty, —— Louch, S. Barton, Thomas Sheepshanks, Charles James Aitken, —— Gillott, D. Crichton, William Gill Paxton, Edward Wood, —— Baillie.			
York Water-gate, stairs and causeway.	- ditto.			
Salisbury or Ivy-bridge stairs and causeway	- - the Master, Wardens and Commonalty of Watermen and Lightermen of the River Thames.	- - -	- - - -	Public.
Messuage, warehouses and wharf.	- - Her Majesty, in right of Her Duchy of Lancaster.	- - -	- - - -	- - Messrs. Barker & Cotton.
Messuage, warehouses and wharf.	- ditto - - - - -	- - -	- - Messrs. Baker, Messrs. Combe, Delafield & Co.	- - Messrs. Combe, Delafield & Co.
Public way, Wellington-street.	- - Paving Commissioners of the Savoy.	- - -	- - - -	- - Paving Commissioners of the Savoy, and the Public.
Messuages, tenements, stables and ground.	- - Her Majesty, in right of Her Crown, and of Her Duchy of Lancaster.	- - -	- - - -	- - the Crown and Duchy of Lancaster.
Somerset-house terrace	the Crown - - -	- - -	- - - -	- - the Crown.
Ditto, stairs and causeway.	- ditto - - - -	- - -	- - - -	- ditto.
Strand-lane stairs and causeway.	- - the Master, Wardens and Commonalty of Watermen and Lightermen of the River Thames.	- - -	- - - -	Public.
Surrey-stairs - -	- ditto - - - - -	- - -	- - - -	- ditto.
Public way, Surrey-street.	- - Paving Commissioners of St. Clement Danes.	- - -	- - - -	- - Paving Commissioners of St. Clement Danes, and the Public.
Vaults below Surrey-street.	Duke of Norfolk - -	- - -	- - John Skinner, Mrs. Crosier, Messrs. Neill & Waugh.	Messrs. Neill & Waugh.
Public way, Norfolk-street.	- - Paving Commissioners of St. Clement Danes.	- - -	- - - -	- - Paving Commissioners of St. Clement Danes and the Public.
A messuage, tenement, warehouse and vaults under Norfolk-street.	Duke of Norfolk - -	- - -	- - the Executors of —— Lingstone, deceased, Edward Manby and others, Messrs. Rogerson & Co.	Messrs. Rogerson & Co.
Arundel-stairs & causeway.	- - the Master, Wardens and Commonalty of Watermen and Lightermen of the River Thames.	- - -	- - - -	the Public.
Public way, Arundel-street.	- - Paving Commissioners of St. Clement Danes.	- - -	- - - -	- - Paving Commissioners of St. Clement Danes, and the Public.

DESCRIPTION.	OWNER.	CONSERVATORS.	LESSEES.	OCCUPIERS.
Messuage and tenement	the Duke of Norfolk -	- - -	- - Admiral Sykes, Thomas Kirk.	Dr. R. J. Culverwell.
Temple-stairs and causeway.	- - the Honourable Societies of the Middle and Inner Temple.			
The Fleet sewer - -	- - the Commissioners of Sewers.			
Public way, pavement and road, Chatham-place.	- - the Trustees and Governors of Bridewell Hospital.	- - -	- - - -	- - the Trustees and Governors of Bridewell Hospital, and the Public.
Public way, Chatham-place.	- - Paving Commissioners of St. Ann, Blackfriars.	- - -	- - - -	- - Paving Commissioners of St. Ann, Blackfriars, and the Public.
Piers, stairs, wing-walls and abutments of Blackfriars-bridge.	- - the Mayor, Aldermen and Commons of the City of London.	- - -	- - - -	- - the Mayor, Aldermen and Commons of the City of London, and the Public.

Thames Embankment.

A

B I L L

To empower Her Majesty's Commissioners of Woods to form a Terrace and Embankment, with convenient Landing-places for the Public, on the Middlesex Shore of the River Thames, between Westminster and Blackfriars Bridges.

(*Prepared and brought in by*
The Earl of Lincoln and Sir George Clerk.)

Ordered, by The House of Commons, *to be Printed,*
31 *July* 1844.

562.

Under 8 *oz.*

A

B I L L

To facilitate the Inclosure and Improvement of Commons and Lands held in common; the Exchange of Lands, and the Division of intermixed Lands; to provide Remedies for defective or incomplete Executions, and for the Non-execution of the Powers of General and Local Inclosure Acts, and to provide for the Revival of such Powers in certain cases.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient to facilitate the Inclosure and Improvement of Commons and other Lands now subject to rights of property which obstruct cultivation and the productive employment of labour, and to facilitate such exchanges of Lands and such divisions of Lands intermixed or divided into inconvenient parcels, as may be beneficial to the respective owners, and it is also expedient to provide remedies for defective or incomplete executions, and for the non-execution of powers created by General and Local Acts of Inclosure, and to authorize the revival of such powers in certain cases; **BE it therefore Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Tithe Commissioners for England and Wales for the time being shall be the Commissioners for carrying this Act into execution, and that should the office of the said Tithe Commissioners cease before the purposes of this Act shall have been fully executed, it shall be lawful in such case for one of Her Majesty's Principal Secretaries of State to appoint any fit persons, not exceeding *Three* in number, to be Commissioners for carrying this Act into execution in the place of such Commissioners whose office shall so cease, and at pleasure to remove any One or more of the Commissioners so appointed; and upon every vacancy in the office of Commissioner some other fit person shall be appointed to such office in like

Preamble.

1. Appointment of Commissioners.

like manner, and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

2. Style of Commissioners.

And be it Enacted, That the Commissioners acting in the execution of this Act shall be styled "The Inclosure Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any *Two* of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the Commissioners shall cause to be made a seal of the said Board, and shall cause to be sealed therewith all awards and orders made or confirmed by the Commissioners in pursuance of this Act; and all such awards and orders and other instruments proceeding from the said Board, or copies thereof purporting to be sealed with the seal of the said Board, shall be received in evidence without any further proof thereof; and no award or order of the Commissioners under the authority of this Act, shall be of any force unless the same shall be sealed as aforesaid.

To have a Common Seal.

3. Commissioners to report.

And be it Enacted, That the Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings as such Principal Secretary of State shall require, and shall Twice in every year (that is to say) on the First day of January and the First day of June, send to one of the Principal Secretaries of State a general report of their proceedings, specifying the applications which may have been made to them under the provisions of this Act, and the grounds on which they may have given or withheld their consent to such applications, and the progress which shall have been made in each case of Inclosure which shall have been proceeded with; and in every case in which the draft award shall have been framed, as hereinafter directed, such report shall specify the extent of the Land subject to be inclosed to which such draft award may relate, and the quantity of Land (if any) thereby directed to be set out for public purposes as hereinafter provided, and the grounds on which the Commissioners may have directed the same to be set out as aforesaid; or in case no Land shall be by such draft award directed to be set out for public purposes, the grounds on which they may have thought it unnecessary or improper to set out Land for such purposes; and every such report shall be laid before both Houses of Parliament within *Six* Weeks after the receipt of the same by such Principal Secretary of State if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting thereof.

Report to be laid before Parliament.

4. Power to appoint and remove As-

And be it Enacted, That it shall be lawful for the Commissioners from time to time to employ all or any of the persons appointed or employed

employed under the provisions of an Act passed in the seventh year of the reign of his late Majesty, intituled, "An Act for the Commutation of Tithes in England and Wales," and under the provisions of an Act passed in the fourth and fifth years of the reign of Her present Majesty, intituled, "An Act for the Commutation of certain "Manorial Rights in respect of Lands of Copyhold or Customary "Tenure, and in respect of other Lands subject to such Rights, and "for facilitating the Enfranchisement of such Lands, and for the "Improvement of such Tenure," as they shall see fit, or to appoint a sufficient number of other persons to be Assistant Commissioners, and also a Secretary, Assistant Secretaries, and all such Clerks, Messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers, or any of them; and on any vacancy in any of the said offices, to appoint some other person to the vacant office, and the persons so employed or appointed shall assist in carrying this Act into execution, at such places and in such manner as the Commissioners may direct: Provided always, That the Commissioners shall not appoint for the purposes of this Act any Assistant Commissioners not appointed or employed by them under the said Acts of the seventh year of King WILLIAM the Fourth, and the fourth and fifth years of Her present Majesty, or under one of such Acts, unless the Lord High Treasurer or any Three or more of the Commissioners of Her Majesty's Treasury shall in the case of each such appointment consent thereto: Provided also, That the appointment of such Assistant Secretaries, Clerks, Messengers and officers shall be subject to the like consent.

Assistant Commissioners, &c.

5. And be it Enacted, That no Commissioner or Assistant Commissioner, Secretary or other officer, or person so to be appointed, shall hold his office for a longer period than *Four* Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of *Four* Years and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

Appointments under this Act limited to Four Years.

6. And be it Enacted, That no salaries shall be paid to the Commissioners appointed or to be appointed as aforesaid, in respect of their appointments under this Act, and the allowances to the Assistant Commissioners, and the salaries of the Secretary, Assistant Secretaries, Clerks, Messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury, or any Three of them: Provided always, That the allowance to an Assistant Commissioner shall not exceed the sum of

for every day he shall be actually employed or travelling in the

Salaries and Allowances.

performance of the duties of his office, including any allowance to which he may be entitled under the said Acts of the seventh year of his late Majesty King WILLIAM the Fourth, and the fourth and fifth years of Her present Majesty, or either of them: Provided also, That the said Lord High Treasurer or Commissioners may allow to any Commissioner, Assistant Commissioner, Secretary, Assistant Secretary, Clerk, Messenger or other officer, such reasonable travelling and other expenses as may be incurred by him in the performance of his duties under this Act, in addition to his salary or allowance (if any) respectively.

7. *Allowances and Salaries to be paid out of the Consolidated Fund.*

And be it Enacted, That the allowances and salaries of the Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into execution not herein otherwise provided for, shall be paid by the Lord Treasurer or the Commissioners of Her Majesty's Treasury out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

8. Commissioners and Assistant Commissioners to make a Declaration.

And be it Enacted, That every such Commissioner shall, before he shall enter upon the execution of his office, make the following declaration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

> "I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act]:"

And every such Assistant Commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner,") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

9. Commissioners or Assistant Commissioners may summon Witnesses.

And be it Enacted, That the Commissioners or any Assistant Commissioner may by summons under their or his hand require the attendance of all such persons as they or he may think fit to examine upon any matter relating to any Inclosure or other proceeding under the authority

authority of this Act, and also make any inquiries and call for any answer or return as to any such matter; and also administer or receive declarations, and examine all such persons upon declaration, and cause to be produced before them or him upon declaration, all books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof respectively, in anywise relating to any such matter: Provided always, That no such person shall be required in obedience to any such summons to travel more than *Ten* Miles from the place of his abode.

10. Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners, or to any One or more of them, such of the powers hereby given to the Commissioners as the Commissioners shall think fit (except the power to confirm awards, or to do any act herein required to be done under the seal of the Commissioners), and the power so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner in pursuance of such delegated power shall be obeyed by all persons as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Descriptions of Land subject to be inclosed under this Act.

And be it Enacted, That all such Lands as are hereinafter mentioned; (that is to say) all Moors, Commons and Waste Lands, all Lands subject to rights of Common at all times, or during any time or season, or periodically, all open and common Arable Fields, all open and common Meadow or Pasture Lands and Fields, all gated and stinted Pastures in which the property of the soil or of some part thereof is in the owners of the cattle-gates and other gates or stints, or any of them, and also all gated and stinted Pastures in which no part of the property of the soil is in the owners of the cattle-gates or other gates or stints, or any of them, all Land held, occupied or used in common, either at all times, or during any time or season, or periodically, and either for all purposes or for any limited purpose, and whether the separate parcels of the several owners of the soil shall or shall not be known by metes or bounds or otherwise distinguishable; all Land in which the property or right of or to the vesture or herbage or any part thereof during the whole or any part of the year is separated from the property of the soil; and all lot Meadows and other Lands, the occupation or enjoyment of the separate lots or parcels of which is subject to interchange among the respective owners in any known course of rotation or otherwise, shall be Land subject to be inclosed under this Act.

12. Persons interested in Lands for purposes of applications, &c.

And be it Enacted, That for the purposes of this Act, the persons interested in Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall be deemed to be the persons hereinafter mentioned, and no others; (that is to say) the persons who shall be in the actual possession or enjoyment or receipt of the rents and profits of any such Land or any part thereof, or any Common or common right thereon, or any Manor of which such Land or any part thereof shall be waste, (except any tenant for life or lives or for years holding under a lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and except any tenant for years whatsoever holding under a lease or agreement for a lease for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, and except any tenant at will or sufferance,) and that without regard to the real amount of interest of such persons; and in every case in which any such Land, Common or common right or Manor shall have been leased or agreed to be leased to any person or persons for life or lives or for years by any lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved; and in every case in which any such Land, Common or common right or Manor shall be in the possession of a tenant at will or sufferance, or shall have been leased for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be entitled to the said Land, Common or common right or Manor in reversion immediately expectant on the term created or agreed to be created by such lease or agreement for a lease respectively, or subject to the tenancy at will or sufferance, shall be deemed for the purposes of this Act to be the person interested as aforesaid in respect of such Land, Common or common right or Manor; and in every case in which any such Land, Common or common right or Manor as aforesaid shall have been leased or agreed to be leased to any person for life or lives or for years by any lease or agreement for a lease, in which a rent less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and of which the term shall have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be in the actual receipt of the rent reserved upon such lease or agreement for a lease, shall, jointly, with the person who shall be liable to the payment of such rent of such Land, Common or common right or Manor be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively; and in every case in which any person shall be in possession or enjoyment or receipt of the rents or profits of any such Land, Common or common right or Manor under any sequestration, extent, elegit or other writ of execution, or as a receiver

receiver under any order of a Court of Equity, the person who, but for such writ or order, would have been in possession, enjoyment or receipt of the rents and profits shall, jointly with the person in possession, enjoyment or receipt, by virtue of such writ or order, be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively.

13. Where the Crown is interested, who shall be substituted.

And be it Enacted, That whenever Her Majesty shall be interested in Land as aforesaid, the First Commissioner of Her Majesty's Woods and Forests and Land Revenues for the time being, or in case Her Majesty shall be so interested in right of the Duchy of Lancaster, the Chancellor of the Duchy of Lancaster shall for the purposes of this Act, and to the extent of such respective interest, be substituted for the person interested as aforesaid.

14. Where Duke of Cornwall is interested, who shall be substituted.

And be it Enacted, That whenever the Duke of Cornwall shall be interested in Land as aforesaid, the Chancellor of the Duchy of Cornwall shall for the purposes of this Act, and to the extent of such interest, be substituted instead of the person interested as aforesaid.

15. Provision for persons jointly interested.

And be it Enacted, That whenever an interest in Land, according to the provisions of this Act, shall be vested in several persons as co-trustees or in joint tenancy, such persons shall for the purposes of this Act be considered as jointly interested and entitled to one vote only in respect of their joint interest, but any One or more of such persons may, unless the other or others of them shall dissent therefrom, act or vote under this Act, and the majority in number of any such persons may, notwithstanding any dissent of the minority, act or vote under this Act in the same manner as if all such persons had concurred; and whenever several persons as tenants in coparcenary or in common shall be so interested, each coparcener or tenant in common shall for the purposes of this Act, and to the extent of the value of his respective undivided share, be deemed separately interested and entitled to vote as if he were tenant in severalty.

16. In case of disability Commissioners to name substitutes.

And be it Enacted, That whenever any person interested in Land as aforesaid shall be a minor, idiot, lunatic, feme covert, or under any other legal disability, or beyond the seas, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners, and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act be substituted in the place of such person so interested

17. Attornies may be appointed by persons interested.

And be it Enacted, That it shall be lawful for any person interested in any Land subject to be inclosed under this Act, or otherwise

subject or to become subject to the provisions of this Act, by a Power of Attorney, given in writing under his hand, to appoint an agent to act for him for the purposes of this Act; and all things which by this Act are directed to be done by or with relation to any such person may be lawfully done by or with relation to the agent so duly authorized of such person; and every such agent shall have full power, in the name and on behalf of his principal, to sign, concur in and execute any application, or act, and to vote on any question arising out of the execution of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the Power of Attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be deposited in the office of the Commissioners; and any such Power of Attorney may be in the form following:

Form of Power.

"I, of
do hereby appoint of
to be my Attorney for all the purposes of an Act passed in the years of Her present Majesty, intituled, ."

18. Meeting to consider the expediency of Inclosure.

And be it Enacted, That any person or persons interested in any Land subject to be inclosed under this Act, may call a meeting of the persons interested in such Land, by notice thereof at least *Twenty-one* Days before such meeting on the church door of the parish within the limits of which such Land or the greater part thereof is situate, and by advertisement to be Twice at least inserted during such *Twenty-one* Days, for the purpose of considering the expediency of an application to the Commissioners for the Inclosure of such Land or of any part thereof; and the majority of the persons present at such meeting shall elect a Chairman; and in case an application in writing to the Commissioners to proceed to an Inclosure of such Land or any part thereof shall be signed at such meeting, or at any adjournment thereof, by any persons then present, the aggregate amount of whose interests in the Land to which such application shall relate, either alone or together with the interest of any person or persons who may subsequently sign such application as hereinafter provided, shall not be less in value than *Two-thirds* of the whole interest in such Land, the Commissioners upon receipt of such application shall inquire into the expediency of proceeding with such Inclosure: Provided always, That any person interested in such Land may after such meeting subscribe such application in the presence of a witness or witnesses, and such signature shall, whether the person so signing shall or shall not have been present at such meeting, be effectual for the purposes of this Act.

Provided

19. Proportional interests, how estimated.

Provided always, and be it Enacted, That the proportional value of the respective interests of the several persons interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall, so far as relates to the power to sign any application, or to give any notice or consent, or to vote at any meeting under this Act, be estimated as hereinafter mentioned; (that is to say) where their interests shall be in respect of Land or other rateable property, then according to the proportional sums at which such Land or rateable property shall be rated to the relief of the poor; and when their interests shall be in respect of rights of Common enjoyed or claimed in respect of any Land, then according to the proportional sum at which the Land in respect of which they enjoy or claim such rights of Common shall be rated to the relief of the poor; but in case such interests shall be in respect of rights of Common in gross not rated to the relief of the poor, or in case from any other cause it shall appear to the persons present at any meeting, held for the purposes of this Act, impracticable or inequitable to estimate such proportional value in manner aforesaid, it shall be lawful for the Commissioners, on application made to them by the Chairman of the meeting, to direct in what manner the proportional value of such respective interests shall be estimated, or to depute an Assistant Commissioner to be present at any meeting or adjourned meeting, who may direct in what manner such proportional value shall be estimated, regard being had to the circumstances of each particular case.

20. Power to equalize Assessments.

Provided also, and be it Enacted, That in case the Land subject to be inclosed under this Act, or the Lands or tenements in respect of which rights of Common therein may be claimed shall be situate in more than one parish, and it shall appear to a majority of the persons present at any such meeting as aforesaid, that the assessments to the poor-rate of the respective parishes in which such Land is situate are calculated upon different principles, it shall be lawful for the Commissioners, on application made to them by the Chairman of the meeting, to direct that for the purposes of this Act the respective assessments shall be deemed to be increased or decreased in such proportions as the Commissioners shall think fit.

21. Proportional interests of Lords of Manors.

And be it Enacted, That the proportional value of the interest of the Lord of a Manor, interested as Lord in any Land subject to be inclosed under this Act, or in case there shall be several Lords of a Manor, or Lords of several Manors so interested in any Land subject to be inclosed under this Act, the proportional value of the respective interests of such Lords shall, for the purposes aforesaid, be estimated in such manner as the Commissioners may direct.

22. Separate applications for separate tracts.

And be it Enacted, That when it shall appear to the Commissioners that the Land to which such application shall relate, shall be in part a tract of open and common Arable, Meadow or Pasture Lands or Fields, and in part a tract of Common or Waste Lands, subject to rights of Common, or shall otherwise consist of separate and distinct tracts subject to separate and distinct rights or classes of rights; and the persons interested in one of such tracts shall not be all interested in the other of them, it shall be lawful for the Commissioners to ascertain whether persons interested in each of such tracts whose interest shall not be less than *Two-thirds* in value of the whole interest therein, shall have signed such application; and in case it shall thereupon appear that such application is not signed by such proportion in value of the persons interested in any such tract as aforesaid, the said Commissioners shall not proceed further under this Act in respect of such tract, unless or until persons interested therein whose interest shall not be less than *Two-thirds* shall have signed the said application, or some supplemental or separate application.

23. Consent of the Lord of the Manor.

Provided always, and be it Enacted, That when the Land to which such application shall relate shall be the Waste of any Manor or Land within any Manor to the soil of which the Lord of such Manor shall be entitled in right of his Manor, then unless there shall be some action, suit or controversy as to the title of such Manor, or the title of the Lord of such Manor to such Waste or Land, or there shall be conflicting claims to such Waste or Land, or there shall be more than one person interested in such Manor, according to the definition of this Act, the Commissioners shall not proceed to an Inclosure on such application, unless the person interested in the Land subject to be inclosed as aforesaid in right of such Manor, or his substitute under this Act, shall sign such application, or shall signify his assent thereto in writing.

24. Adjournment of Meetings.

And be it Enacted, That in case an adjournment of the said meeting for any cause shall be desired by a majority of the persons attending such meeting, the Chairman shall, if he see fit, adjourn the meeting to any time not exceeding *Six* Weeks from the day of such meeeting, and to any convenient place desired by a majority of the persons attending such meeting, and so from time to time in case the same shall be in like manner desired by a majority of the persons attending such meeting; and notice of every adjourned meeting shall be given under the hand of the Chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden; and the like order of proceeding shall be observed in any such adjourned meeting, and every thing done at any such adjourned meeting shall be as valid as if done at the original meeting.

And

25. Forms to be circulated.

And be it Enacted, That the Commissioners shall frame and cause to be printed, as soon as conveniently may be after the *passing of this Act*, forms of applications, notices and such other instruments as they may deem requisite or expedient for facilitating proceedings under this Act, and supply such forms to whomsoever they may think fit to send the same for the use of any person desirous of putting this Act into execution.

26. Commissioners to inquire into expediency of Inclosure, and if satisfied to call Meetings.

And be it Enacted, That upon the receipt of any such application for Inclosure as aforesaid, the Commissioners shall proceed to inquire into the expediency of such Inclosure, having regard as well to the health, comfort and convenience of the inhabitants of any neighbouring cities, towns, villages or populous places, as to the advantage of the Proprietors and persons interested in the Land to which such application shall relate; and if after inquiry they shall consider it expedient that the Inclosure of the Land proposed to be inclosed or any part thereof be proceeded with, they shall from time to time hold by themselves, or by an Assistant Commissioner, such meetings in the matter of such Inclosure as occasion shall require, and shall cause notice to be given on the church door of the parish in which the Land proposed to be inclosed or the greater part thereof shall be situate; and also a like notice to be given by advertisement, of the time and place of the meeting in the matter of such Inclosure, and of each subsequent meeting in the like matter, *Fourteen* Days' at least before such respective meeting (meetings by adjournment only excepted); and if from any cause the Commissioners or Assistant Commissioner shall think fit to adjourn or postpone any such meeting, either at or before the meeting, it shall be lawful for them or him to adjourn or postpone such meeting to any future day.

27. On notice of intention to petition Parliament against the Inclosure, proceedings to be suspended.

Provided always, and be it Enacted, That in case any persons interested in the Land proposed to be inclosed, the aggregate value of whose interests in such Land shall not be less than *One-fourth* of the whole interest therein, or any male inhabitants of the parish or respective parishes in which the Land proposed to be inclosed shall be situate, and of the parish or respective parishes, if any there be adjoining any part of the Land to be inclosed, amounting in number to *One-tenth* part of the male population of such parish or of the aggregate male population of all such respective parishes, according to the then last previous census or enumeration taken by authority of Parliament, shall within *Twenty-one* Days after such notice shall have been given on the church door, as last aforesaid, cause to be delivered to the Commissioners a notice in writing of their intention to apply to Parliament to suspend such proposed Inclosure, then the Commissioners shall not further proceed with such Inclosure until the expiration of *Six* Weeks after the receipt of such notice by the Commissioners, if Parliament be sitting, or if Parliament be not sitting, then until the expiration of *Six* Weeks after the next meeting of Parliament.

28. Proportional interests of applicants to be scrutinized.

Provided also, and be it Enacted, That in case any person interested in the Land to which such application shall relate shall within *Twenty-one* Days after the receipt of such application by the Commissioners, give notice in writing to the Commissioners that such application was not signed by persons possessing the proportion of interest by this Act required in that behalf, the Commissioners shall before they proceed to inquire into the expediency of such Inclosure ascertain the interests of the persons signing the application; and in case it shall appear to the Commissioners that the persons signing the same had not the proportion of interest hereinbefore required for that purpose, no further proceedings shall be taken under such application, until the same shall have been duly signed according to the provisions of this Act.

29. Claims to be delivered in writing.

And be it Enacted, That all persons claiming any common or other right or interest in any Land proposed to be inclosed as aforesaid, shall deliver such claims in writing to the Commissioners or Assistant Commissioner acting in the matter of such Inclosure, at such meeting as the Commissioners or Assistant Commissioner shall appoint for the purpose, stating the several particulars in respect whereof such claims are made, and distinguishing the claims in respect of freehold, copyhold, customary and leasehold property from each other, and mentioning therein the places of abode of the respective claimants or their agents at which notices in respect of such claims may be delivered; and no such claim shall be received by such Commissioners or Assistant Commissioner after the last meeting to be held for that purpose (of which notice shall be given), except for some special cause to be allowed by the Commissioners.

30. Power to set out Boundaries of Commons.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure may, when they or he shall think necessary, inquire into, ascertain and set out the boundaries of the Land proposed to be inclosed; and in case any doubts or difficulties shall arise respecting such boundaries, the Commissioners or Assistant Commissioner shall determine the same in like manner as by this Act provided for the determination of claims made in the matter of such Inclosure.

31. Power to set out Boundaries of Parishes.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure may, when they or he shall think necessary for the purposes of such Inclosure, inquire into the boundaries of any parish in which the Land proposed to be inclosed or any part thereof shall be situate, and of any parish adjoining thereto; and in case it shall appear to the Commissioners or Assistant Commissioner that the boundaries of the same respectively are not then sufficiently ascertained and distinguished, the Commissioners or Assistant Commissioner shall, after giving such notices as they or he shall

shall think necessary for the protection of the rights of all persons interested in this behalf, ascertain and set out the same respectively in writing under the hand and seal of such Assistant Commissioner, or under the seal of such Commissioners; and after the said boundaries shall be so ascertained and set out and fixed, the same shall and are hereby declared to be the boundaries of such parishes; and the Commissioners or Assistant Commissioner shall within *One calendar Month* after ascertaining and setting out the boundaries, publish the same by causing a description thereof in writing to be delivered to or left at the place of abode of one of the Churchwardens or Overseers of the poor of each of the parishes of which the boundary shall be so set out, and shall give notice that such boundary has been so set out, and that such description has been so left as aforesaid, by advertisement: Provided always, That any person interested in the determination of the Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may within *One calendar Month* next after publication of the said boundaries, by delivering or leaving such description as aforesaid, give notice in writing of his dissatisfaction to the Commissioners, specifying the particulars in respect whereof he may be dissatisfied, and request that the matter in dispute may be submitted to the determination of a jury; and in every such case the Commissioners shall and they are hereby required to issue a warrant under their hands and seal to the sheriff of the county in which the parishes in question or one of them shall be situate, commanding such sheriff to impannel, summon and return, and such sheriff is hereby accordingly empowered and required to impannel, summon and return a jury of at least Eighteen sufficient and indifferent men qualified according to the laws of the realm to be returned for trial of issues in Her Majesty's Courts of Record at Westminster; and the persons so to be impanneled, summoned and returned are hereby required to appear before any Assistant Commissioner specially appointed by the Commissioners for that purpose at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impanneled, summoned and returned, a jury of Twelve men shall be drawn by the said Assistant Commissioner, or by some person to be by him appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, such sheriff shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all parties concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Assistant Commissioner

Appeal on questions of Boundary.

sioner is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matter in question, and may authorize or order the said jury, or any Six or more of them, to view the boundaries or the part thereof which is in controversy, and such jury shall upon their oaths, or, being Quakers, upon their affirmations (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Assistant Commissioner is hereby empowered and required to administer), inquire into and ascertain the said boundaries, or such part thereof as shall have been in controversy, and shall declare whether the said boundaries as described and set out and published as aforesaid are or are not the true boundaries of the respective parishes, and in case they shall declare that the same are not the true boundaries, then shall declare in what manner the boundaries so described and set out and published as aforesaid ought to be amended, and shall give verdict accordingly, and the Assistant Commissioner shall reduce such verdict to writing and certify the same to the Commissioners, under his hand and seal; and in case such jury shall have declared that the boundaries so described and set out and published as aforesaid ought to be amended, the Commissioners shall amend the same in accordance with such verdict, and such amended boundaries shall thenceforth be conclusive on all persons whomsoever.

32. Non-attendance of jurymen.

And be it Enacted, That if any person so summoned and returned upon any such jury as aforesaid shall not appear, or appearing shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act; or if any person so summoned to give evidence as aforesaid shall not appear on being paid or tendered a reasonable sum for his costs and expenses, or appearing shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse, to be judged of and determined by the said Assistant Commissioner, shall forfeit and pay for every such offence any sum not exceeding *Ten Pounds*; all which said penalties and forfeitures shall and may be recovered as penalties and forfeitures are recoverable under this Act.

33. Juries to be subject to the Regulations concerning Juries returned to try issues in Courts of Record at Westminster.

And be it Enacted, That every such jury and jurymen as aforesaid shall also be subject to the same regulations, pains and penalties as if such jury and jurymen had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster.

34. Costs of appeal.

And be it Enacted, That in every case in which the verdict of a jury shall be given in favour of the person who shall have requested

requested that such jury be summoned, all the costs of summoning such jury and the expenses of witnesses shall be defrayed by the Commissioners, and shall be expenses in the Inclosure in the matter of which the question shall have arisen, and such costs and expenses shall be settled and determined by the said Assistant Commissioner as aforesaid; but if the verdict of the jury shall be given against such person, the said costs and expenses shall be defrayed by such person; and in case such costs and expenses shall not be paid to the party entitled to receive the same within *Ten* Days after the same shall have been demanded, then the same shall and may, by warrant of the Commissioners directed to any person or persons whomsoever, be levied by distress; but in case such person shall have requested such jury to be summoned, in pursuance of a resolution of the rate-payers of any parish in vestry assembled, the costs and expenses so paid by him shall be repaid to him by the Overseers of the Poor of such parish, out of the poor's rate, and shall be allowed in account to such Overseers.

35. Security for Costs to be taken by the Commissioners.

And be it Enacted, That every person who shall be dissatisfied and shall require a jury to be summoned as aforesaid, shall, at his own costs, before the Commissioners shall be obliged to issue their warrant for the summoning of such jury, enter into a bond with two sufficient sureties to the Commissioners in a sufficient penalty to prosecute the complaint, and to bear and pay their costs and expenses of summoning and returning such jury and taking such verdict, and of the summoning and attendance of witnesses, in case the said costs and expenses shall fall upon them.

36. Statement of Claims to be deposited for examination.

And be it Enacted, That a statement of all claims in the matter of any Inclosure which shall have been delivered to the Commissioners or Assistant Commissioner as hereinbefore provided, shall be made and deposited by the Commissioners or Assistant Commissioner acting in the matter of such Inclosure, at some public place within the parish in which the Land proposed to be inclosed, or the greater part thereof, shall be situate, *Fourteen* Days at least before the time to be appointed for the examination of such claims as hereinafter provided; and the Commissioners or Assistant Commissioner shall cause *Fourteen* Days' notice to be given of the time and place of the meeting for the examination of such claims and for the attendance of all parties concerned therein; and at such meeting the Commissioners or Assistant Commissioner shall proceed to examine into and determine such claims, and shall and may allow or disallow the same in whole, or in part, and make such order therein as to them or him shall appear just; and in case any doubts or difficulties shall arise respecting such claims, or any differences shall happen between any of the claimants touching their respective claims or the relative proportions of their rights and interests, the Commissioners or Assistant Commissioner shall determine the same,

Claims to be heard and determined.

and shall make such order therein as to the Commissioners or Assistant Commissioner shall appear just, which order shall be final, unless any party shall be dissatisfied with the determination of the Commissioners or Assistant Commissioner, and shall give such notice of his dissatisfaction, and proceed to try his right by an issue at law, as hereinafter provided, without prejudice nevertheless to such right to a rehearing, after the draft award shall have been framed, as hereinafter provided.

37. Commissioners not to decide on Titles.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to enable the Commissioners or Assistant Commissioner to determine the title of any Lands or to determine any right between any parties contrary to the actual possession of any such party (except in cases of encroachment, as hereinafter mentioned), but in case the Commissioners or Assistant Commissioner shall be of opinion against the rights of the party in possession, they or he shall forbear to make any determination thereupon until the possession shall have been given up by such party or recovered from him in due course of law; or where the circumstances shall admit, such Commissioners or Assistant Commissioner may declare what right is appendant or appurtenant to any Land or hereditament, or otherwise declare by any sufficient description the rights of the owner for the time being of any Land or hereditament, without declaring by name who may be the actual owner of such Land or hereditament.

38. Provisions for encroachments within Twenty Years.

And be it Enacted, That all encroachments and Inclosures which shall have been made by any person from or upon any part of the Land proposed to be inclosed, within *Twenty* Years next before the first meeting for the examination of claims in the matter of the Inclosure thereof, whether any amerciament, rent or money, payment or acknowledgment shall or shall not have been paid in respect of the same to or for the use of the Lord of the Soil, or any other person, shall be deemed parcel of the Land subject to be inclosed, and shall be divided, allotted and inclosed accordingly: Provided always, That in case under the circumstances of any such encroachments or Inclosures it shall appear to the Commissioners or Assistant Commissioner just or reasonable that rights or interests in the Lands to be inclosed should be allowed to the persons in possession of such encroachments or Inclosures, it shall be lawful for the Commissioners or Assistant Commissioner to allow and declare such rights accordingly: Provided also, That it shall be lawful for the several persons who shall be in possession of any such encroachments or Inclosures, or in the receipt of the rent thereof at the time of the confirmation of the draft award under this Act, to take down or remove all such buildings, fences and other erections as shall then be thereon, and to convert the materials thereof to their own

own use within *Two* calendar Months after notice in writing signed by the Valuer, given to such respective persons or posted on the church door; and in case any dispute or difference shall arise touching any such encroachments or Inclosures, or as to the extent thereof, such dispute or difference shall be determined by the Commissioners or Assistant Commissioner.

39. School-houses &c. not to be deemed encroachments.

Provided also, and be it Enacted, That in case any such Land shall have been taken or used, at any time before such first meeting for the examination of claims, for the erection of a school-house or the appurtenances thereto, or for other such purposes as in the opinion of the Commissioners shall be charitable or parochial purposes, such Land so taken, or the erections made thereon, shall not be taken or deemed to be of the nature of an encroachment within the meaning of this Act.

40. Encroachments of Twenty Years standing to be deemed ancient Inclosures.

Provided always, and be it Enacted, That all Land which shall have been inclosed from any Land subject to be inclosed under this Act for more than *Twenty* Years next preceding the day of the first meeting for the examination of claims in the matter of such Inclosure shall, for the purposes of this Act, be deemed and taken to be ancient Inclosures.

41. Rights in respect of Tofts to be allowed.

And be it Enacted, That all tofts, foundations or sites of ancient commonable messuages or cottages shall, upon proof being made to the satisfaction of the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, that commonable messuages or cottages formerly stood thereon, be deemed commonable messuages or cottages, and the respective proprietors thereof shall be entitled to the same compensation for the rights of common originally belonging thereto as if such messuages or cottages were still standing.

42. Rights not sustainable in law to be allowed upon proof of Sixty Years' usage.

And be it Enacted, That where any claim shall be made to any right of Common or other right which in the judgment of the Commissioners or Assistant Commissioner could not be sustained in law, but proof shall be made to the satisfaction of the Commissioners or Assistant Commissioner that there has been enjoyment under the right so claimed for the space of *Sixty* Years or upwards, next before the first meeting for the examination of claims in the matter of such Inclosure, it shall be lawful for the Commissioners or Assistant Commissioner to allow such claims in such and the same manner as if the right so claimed might have been legally sustained and established.

43. Appeal in respect of Claims.

Provided always, and be it Enacted, That if any person claiming to be interested in any Land proposed to be inclosed under this Act shall be dissatisfied with any determination of the Commissioners or

Assistant Commissioner, concerning any claim or interest in or to the Land proposed to be inclosed under the powers hereinbefore contained, and shall cause notice in writing of such dissatisfaction to be delivered to the Commissioners, within *Thirty* Days next after notice of such determination shall have been given to the several parties or persons specially interested, if any such there be, it shall be lawful for such person so dissatisfied and giving such notice as aforesaid to bring an action upon a feigned issue against the person in whose favour such determination shall have been made, or against the Commissioners, and to proceed to a trial at law at the then next Assizes, or at the Assizes immediately following such next Assizes, to be holden for the county wherein the Land relating to which such dispute shall arise shall be situate; and the defendant in such action shall, upon being served with the usual process therein, appear thereto, and accept One or more issue or issues whereby such claim, and the right and interest thereby insisted upon, may be tried and determined; such issue to be settled by the proper officer of the Court in which the said action shall be commenced in case the parties shall differ about the same; and the verdict given upon the trial of such action shall be binding and conclusive upon all parties thereto, unless the Court wherein such action shall be brought shall set aside such verdict and order a new trial to be had; and after such verdict shall be given and final judgment obtained thereon, the Commissioners shall act in conformity thereto, and allow or disallow the claim thereby determined according to the event of such trial; and the costs attending any such action shall abide the event of the trial.

44. Determination of Commissioners not appealed against conclusive.

Provided always, and be it Enacted, That if no such notice of dissatisfaction shall be given, or if no such action at law shall be commenced as aforesaid, or if any such action shall be commenced and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, unless the Court for sufficient cause put off the trial, then the determination of the said Commissioners or Assistant Commissioner shall be final and conclusive.

45. Actions not to abate.

And be it Enacted, That if any person, plaintiff or defendant, in any action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such event had happened, the heir or devisee or other person entitled to the interest of the deceased party in the matter in question being served with process in the action; and if any person in whose favour such determination as aforesaid shall have been made, and against whom any such action might have been brought if living shall die before any action brought, it shall be lawful for the person who might have brought such action to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to

serve

serve the Commissioners with process for commencing such action in the same manner as the deceased person might have been served therewith if living; and it shall thereupon be incumbent on the Commissioners to serve with such process the heir or devisee or personal representative of the deceased person, or other the person who shall claim the benefit of such determination as aforesaid; and on such process being served, such heir or devisee, or personal representative, or other person, shall appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been living, and the rights, interests and claims of all parties shall be equally bound by the event of any action so brought or continued as aforesaid, as if the death of any of the persons interested therein had not occurred.

26. Commissioners may award Costs.

And be it Enacted, That in case the Commissioners or Assistant Commissioner acting in the matter of any Inclosure upon the determination of any claim or objection to be delivered to them or him in pursuance of this Act, shall see cause to award any costs, it shall be lawful for the Commissioners or Assistant Commissioner, upon application, to assess and award such costs as they or he shall think reasonable to be paid to the person in whose favour any determination of the Commissioners or Assistant Commissioner shall have been made, and by the person whose claim or objection shall have been disallowed; and in case any person liable to pay such costs shall neglect or refuse to pay the same upon demand, the Commissioners or Assistant Commissioner shall by warrant directed to any person or persons whomsoever, cause such costs to be levied by distress; and if there shall be no goods and chattels whereon to levy such costs, it shall be lawful for the person in whose favour such costs shall be awarded, to recover the same by action of debt, or on the case; in which action it shall be sufficient for the plaintiff to declare that the defendant is indebted to him in the sum specified in the order of adjudication made by the Commissioners or Assistant Commissioner, and in consequence of such order, without setting forth any other proceedings under this Act.

47. Differences may be submitted to arbitration.

Provided always, and be it Enacted, That in case any person hereinbefore authorized to bring an action upon a feigned issue, and the person against whom such action might be brought shall be desirous of submitting the matter in dispute or difference to the arbitration of any arbitrator, or of any arbitrators and umpire, it shall be lawful for such persons, with the approbation of the Commissioners, to submit such matter in dispute accordingly, and such submission shall be irrevocable, and the decision thereupon shall be binding on both parties and be obeyed accordingly, and the costs of such arbitration shall abide the event; and the Commissioners may require each of the per-

sons in difference upon any such submission to arbitration to give such security for the payment of the costs of such arbitration as the Commissioners shall think fit.

48. Draft Award.

And be it Enacted, That when the Commissioners or Assistant Commissioner, acting in the matter of any Inclosure, shall have determined such claims as hereinbefore directed, and, in case any doubt or difficulties shall have arisen respecting the boundaries of the Land proposed to be inclosed, shall have determined and set out such boundaries, they or he shall determine what part of the Land proposed to be inclosed shall be set out and appropriated for such public purposes as hereinafter mentioned, or any of them; (that is to say) for the formation of public roads and ways, or widening any existing public roads or ways, for supplying stone, gravel or other materials for the repairs of the several roads and ways to be made over such Land, and of the other roads and ways within the parish in which such Land shall be situate, for the formation of such public drains, watercourses or embankments as may appear conducive to the health and advantage of such parish or the neighbourhood, for a place of exercise and recreation for the inhabitants of the neighbourhood, for the formation or improvement of public ponds, wells and watering-places, and for a supply of fuel for the poor or other inhabitants of the parish, for Land for any burying-ground, or enlarging any burying-ground, for the site of any church or chapel, parsonage-house, school, workhouse or garden to be attached thereto respectively, or for any other purpose of public utility or convenience, or for the convenience or accommodation of the persons interested in the Land to be inclosed, and shall frame a draft award, to which shall be annexed a map of the Land to be inclosed, showing the position and quantity of the Land proposed to be set out for such public purposes as aforesaid, and the public roads and ways (if any) proposed to be stopped or diverted; and such draft award shall contain a declaration of the proportional right or interest of the Lord of the Manor (if any), and of the several and respective rights or interests of the several persons interested in the Land to be inclosed according to the determination of the Commissioners or Assistant Commissioner as aforesaid; and where such persons shall be interested in respect of Lands or rights of different tenures, or held under different titles, or in respect of separate rights appendant or appurtenant to different Lands, shall specify and distinguish the rights and interests in respect of such different tenures, titles and Lands respectively.

49. Rights of the Lord in minerals to be reserved

Provided always, and be it Enacted, That every such draft award shall specify whether the proportional right or interest of the Lord of the Manor, or Lords of the respective Manors (if any), declared by such

such draft award shall have been estimated inclusively or exclusively of his right or property in or to the mines and minerals under the Land to be inclosed; and in case it shall have been estimated exclusively of his right or interest in such mines and minerals, then such draft award shall declare that such mines and minerals, or all such right or property therein as shall have been vested in the Lord of the Manor, or Lords of the respective Manors, shall be excepted and reserved to such Lord or Lords, upon the allotment and division of the Land to be inclosed; and in every case such mines and minerals, or such right or property therein as aforesaid, shall be excepted and reserved to such Lord or Lords, unless he or they shall consent in writing to relinquish the same; and in every case all seigniories, royalties, franchises and manorial jurisdictions whatsoever, in or upon the Land to be inclosed under this Act, shall not be deemed to be compensated or extinguished, but shall be saved and excepted out of the operation of this Act, unless in and by such draft award, it shall be declared with the consent of the Lord or respective Lords entitled thereto, that such seigniories, franchises, royalties and jurisdictions shall be extinguished upon the proposed inclosure.

unless specially declared to be compensated with consent of the Lord.

Seigniories not affected except with consent.

50. Minerals under regulated pastures may be reserved while minerals under Lands to be held in severalty are relinquished.

Provided always, and be it Enacted, That in every case in which, under the provisions hereinafter contained, part of the Land subject to be inclosed under this Act shall be converted into and used as a regulated pasture, and the residue thereof shall be divided and allotted in severalty, it shall be lawful for the Commissioners, having regard to the right of the Lord of the Manor, as the same shall have been ascertained and declared by the draft award and with the consent of the Lord of the Manor, and a majority in value of the other persons interested in the Lands proposed to be inclosed, to direct that the rights of the Lord of the Manor in and to the mines and minerals under such part of the Land as shall be converted into and used as a regulated pasture, shall be reserved to the Lord, and that the mines and minerals under the residue to be divided and allotted in severalty, shall become the property of the owners of the respective allotments, and that the allotments be adjusted accordingly: Provided also, That in every case in which the right to the mines and minerals under any Land, shall exist as property distinct and separate from the property in the surface, and shall not be compensated upon the inclosure, the right and property in such mines and minerals shall be in nowise affected by the inclosure.

51. Deposit of draft Award.

And be it Enacted, That as soon as such draft award shall have been framed as aforesaid, the Commissioners or Assistant Commissioner shall deposit a copy of the same at some convenient place within the parish in which the Land to be inclosed, or the greater

part thereof, shall be situate, for the inspection of all persons interested in the Inclosure, and shall forthwith give notice in such manner as to the Commissioners shall seem fit, where the said copy may be inspected, and shall upon the application of any Lord of a Manor, interested in such Inclosure, and entitled to the soil of the Land to be inclosed, furnish him with a copy of such draft, and shall in such notice as aforesaid appoint some convenient place and time (the First not earlier than *Twenty-one* Days from the first giving of such notice) for holding a meeting to hear objections to such draft award by any person interested therein in respect of any matter appearing therein, which shall not have been heard and determined on such examination of claims as hereinbefore directed; and the Commissioners or Assistant Commissioner at such meeting as aforesaid, shall hear and determine any such objections which may be then and there made to the said draft award, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting, and from time to time fix further meetings for the hearing and determining of such objections; of which further meetings when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting; and when the Commissioners or Assistant Commissioner shall have heard and determined all such objections, they or he shall amend such draft award accordingly if they or he shall see occasion.

and Meeting for hearing objections.

25. Rehearing.

And be it Enacted, That if any person interested in any such Inclosure shall be desirous that any claim or matter which shall have been previously determined by the Commissioners or Assistant Commissioner on the examination of claims as aforesaid, and in respect of which no action at law shall have been brought, and no submission to arbitration made under the provisions hereinbefore contained, should be reheard as an objection to the draft award, and of such his desire shall give notice in writing to the Commissioners or Assistant Commissioner acting in the matter of such Inclosure at or before the meeting, held to hear such other objections to such draft award as aforesaid, the Commissioners shall forthwith give notice in such manner as they shall think fit, appointing some convenient place and time for holding a meeting to rehear such claim, matter or objection; and the Commissioners or any Assistant Commissioner, specially empowered for that purpose, shall rehear and determine the said claim, matter or objection, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting, and may, if they or he shall see occasion, from time to time fix other meetings for such rehearing; and when the Commissioners or Assistant Commissioner shall have reheard and determined such claim, matter or objection, they or he may, if they or he shall see occasion, amend the draft award accordingly; and the decision of the Commissioners or Assistant Commissioner upon such rehearing shall be final

and

and conclusive, and shall not be subject to be re-opened for any cause whatever: Provided always, That no person shall be entitled to a rehearing of any claim, matter or objection until he shall have procured some sufficient person on his behalf to join with him in giving security by bond to the said Commissioners in a sufficient penalty conditioned for the payment of all such costs as the Commissioners or Assistant Commissioner shall think fit to award, as the costs of such rehearing to be paid to such person as the Commissioners or Assistant Commissioner shall direct; and the Commissioners or Assistant-Commissioner may award such costs accordingly.

53. Confirmation of draft Award.

And be it Enacted, That as soon as the AssistantCommissioner acting in the matter of any Inclosure, or the Commissioners shall have made such amendments in the draft award as to him or them shall seem necessary, or shall have determined that no amendments shall be necessary, the Commissioners, if they think that the draft award ought to be confirmed, shall confirm the same under their hands and seal, and shall add to the draft the date of such confirmation, and shall publish the fact of such confirmation, and the date thereof in the parish, or in each parish in which the Land to be inclosed, or any part thereof, shall be situate, in such manner as to them shall seem fit; and every such confirmed draft award shall be binding on all persons interested in the Land to be inclosed, and shall be the basis and guide of all such further proceedings as hereinafter directed in the matter of such Inclosure.

54. Meeting for appointing Valuer.

And be it Enacted, That as soon as conveniently may be after the publication of the confirmation of such draft award, the Commissioners or Assistant Commissioner acting in the matter of the Inclosure shall call a meeting of the persons interested in the Land to be inclosed, of which *Twenty-one* days' notice shall be given by advertisement, to be held for appointing a Valuer to divide, set out and allot such Land, or so much thereof as shall not have been directed to be set out for public purposes as aforesaid, among the persons interested therein, and to set out, divide and improve in such manner as hereinafter mentioned, so much thereof as shall have been directed to be set out for public purposes, and shall give notice of such meeting; and the persons or their agents present at the meeting, or the majority in number, and the majority in respect of interest, may appoint a Valuer; and in case the majority in number and the majority in respect of interest shall not agree upon the appointment, then the Commissioners shall appoint a Valuer.

55. Instructions to Valuer.

And be it Enacted, That at the meeting for appointing a Valuer, or at some other meeting called by the Commissioners or Assistant Commissioner for the purpose, the persons or their agents present at the meeting, or the majority in number and in respect of interest, may resolve upon instructions to the Valuer, not inconsistent with the draft award, for the formation, alteration or improvement on the Land to be inclosed.

of such private or occupation-roads and ways, common ponds, ditches, watercourses, embankments, tunnels, bridges and fences, or any of them, and for the adoption and use for the purposes of the Inclosure of a copy of any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners of the Land in question, or of any other map or plan of the accuracy of which the Inclosure Commissioners shall be satisfied, or for making any new survey, map or plan, and as to all other matters and things which may be proper to be done in the matter of the Inclosure, and also for the raising and payment of all expenses incident to such Inclosure, either by sale of part of the Land proposed to be inclosed, or by such rate as hereinafter provided, as to the persons present at such meeting, or such majority as aforesaid, shall seem fit; or in case the majority in number and not less than *Four-fifths* in value of interest of the persons present at such meeting shall resolve on a sale of all the land proposed to be inclosed, except such part thereof as shall have been directed to be set out for public purposes, then it may be an instruction to the Valuer to proceed to such sale; and the majority in number and value as aforesaid may make any agreement with the Valuer for the payment of such Valuer for the duties to be performed by him under this Act; and all such instructions and such agreement (if any) shall be reduced into writing, and shall be sent by the Chairman of the meeting to the Office of the Commissioners; and it shall be lawful for the Commissioners, having regard to the protection of the rights of all persons interested in the Inclosure, to allow or disallow such instructions, in whole or in part, or to make such alterations therein or additions thereto, and to allow or disallow such agreement, as they shall think proper; and in case no instructions shall have been so resolved upon, and sent to the Commissioners, or in case they shall disallow the instructions so resolved upon and sent, it shall be lawful for the Commissioners to frame such instructions as they shall think proper; and in case no such agreement shall have been sent, or the agreement sent shall have been disallowed, it shall be lawful for the Commissioners to make such order for the payment of the Valuer as they shall think proper; and a copy, under the seal of the Commissioners of all such instructions as the same shall have been allowed, altered or framed as aforesaid, shall be delivered to the Valuer, with a copy of the draft award, and the Valuer shall in his proceedings in such Inclosure observe and obey the directions and declarations of such draft award and instructions respectively.

56. **Form of Declaration by Valuer.**

And be it Enacted, That no Valuer shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant Commissioner, Justice of the Peace, or Master Extraordinary in Chancery, the following Declaration; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill

skill and judgment, perform all the duties of a Valuer in the Inclosure of according to the provisions of an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled "

Which Declaration it shall be lawful for the Commissioners or any Assistant Commissioner, Justice, or Master Extraordinary in Chancery to administer; and every such Declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the Office of the Commissioners; and a certificate, under the seal of the Commissioners, that the person named in such certificate has been appointed a Valuer in the matter of an Inclosure, and has made and subscribed the Declaration required by this Act, shall be conclusive evidence of such appointment and of his having made and subscribed such Declaration.

57. Power to straighten Boundaries.

And be it Enacted, That for the purpose of shortening or rendering straight any boundary fences between the Land to be inclosed and any adjoining Lands, it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in such adjoining Lands, to set out and determine the boundaries between the Land to be inclosed and such adjoining Land, or to draw and define a new line of boundary, as he shall judge proper for the purposes aforesaid; and after such boundaries shall have been so set out and determined as aforesaid, or such new line of boundary drawn and defined, the same shall be made, fenced, ditched or mounded by such person, in such manner and at such times as the Valuer shall direct, and shall for ever thereafter be deemed the boundaries and limits of such respective Lands.

58. Power to Valuer to make Watercourses, &c.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure to set out and make such common ponds, ditches, watercourses, embankments, tunnels and bridges of such extent and form, and in such situations as he shall deem necessary, and as shall not be inconsistent with the draft award, in the Land to be inclosed, and also to enlarge, cleanse or alter the course of and improve any of the existing ditches or watercourses, embankments, tunnels or bridges, as well in and over the same Land, as also in any ancient Inclosures or other Lands in the parish or respective parishes in which the Land to be inclosed may be situate, as the Valuer shall deem necessary, making such satisfaction to the proprietors of such ancient Inclosures or Lands for the damage done thereby as the Valuer shall think just; and the expense of making and enlarging, altering and cleansing such ponds, ditches, watercourses, embankments, tunnels and bridges, when the same shall be first done in pursuance of this

Act, if not otherwise provided for, shall be raised and paid in the same manner as the other expenses of the Inclosure; but all such ponds, ditches, watercourses, embankments, tunnels and bridges shall at all times afterwards be repaired, cleansed and maintained by such persons, and in such manner as the Valuer shall direct, provided that no watercourse be diverted or turned without the consent, in writing, of the person interested in the Land from which the same may be diverted, and of the person interested in the Lands into which the same may be turned, or to the prejudice of any person interested in such watercourse, except with his consent in writing.

59. Power to alter Roads and Ways.

And be it Enacted, That in the first place the Valuer acting in the matter of any Inclosure shall and may, before he shall proceed to make any of the divisions and allotments of the Land to be inclosed, set out the public roads and ways through and over the said Land, and widen any of the public roads or ways which may pass through or over the said Land as by the draft award shall have been directed; and shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of such draft award, stop up, divert or alter any of the roads or ways passing through the Land to be inclosed, or through any old Inclosures in the parish or respective parishes in which the Land to be inclosed shall be situate; and the soil of such of the roads and ways so to be discontinued and stopped up as pass through the Lands to be inclosed, shall be deemed part of the Lands to be inclosed: Provided always, That nothing herein contained shall authorize the altering or diverting any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a public meeting called for that purpose, be first obtained: Provided also, That before any public road or way shall be discontinued, diverted, stopped up or altered by the Valuer acting in the matter of any Inclosure, the Valuer shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Valuer shall also cause the same notice to be given by advertisement for *Four* successive Weeks, and also on the church-door on the *Four* Sundays of the said *Four* successive Weeks; and after the said several notices shall have been so given, such road or way shall from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

60. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within *Four* Months after the first Sunday on which such notice shall have been given on the church-door of the intention that such road or way should be discontinued, stopped up, diverted or altered, as the case may be, to make

make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions for the county, riding, division or other jurisdiction in which such road or way, or the greater part thereof, shall be situate, upon giving to the Valuer *Ten* Days' notice in writing of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such appeal, unless such notice and statement shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

61. Trial of Appeal.

And be it Enacted, That in case of such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be discontinued, stopped up, diverted or altered, or whether the party appealing would be thereby injured or aggrieved, impannel a jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if after hearing the evidence produced before them the said jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the Appellant to the Valuer, and the same shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said jury shall return a verdict that such road or way is not unnecessary, or that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the party appealing would be injured or aggrieved thereby, the said Court shall allow such appeal, and such public road or way shall not be discontinued, stopped up, diverted or altered; or in case the same shall have been discontinued, stopped up, diverted or altered, the said Court shall make an order restoring the same to its original state, and shall award to the Appellant the costs of prosecuting such appeal, and such costs shall be paid by the said Valuer out of the monies to be raised for the expenses of the Inclosure.

62. Roads to be fenced.

And be it Enacted, That such public roads and ways so to be set out as aforesaid, shall be well and sufficiently fenced on both sides by such of the persons interested in the Land to be inclosed, and within such time as the Valuer acting in the matter of such Inclosure shall direct; and it shall not be lawful for any person to set up or erect any gate across any such road or way, or to plant any trees in or near to the hedges on the sides thereof, at a less distance from each other than *Fifty* Yards, and the Valuer shall form and complete such parts of the said public roads and ways as shall be newly made.

63. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, and the stopping up, discontinuing, diverting, widening and altering of such roads and ways, and the money compensation in respect thereof upon any Inclosure, shall be paid in such manner as the expenses of such Inclosure shall be directed to be paid.

64. Roads to be repaired by the Parish after certificate by Valuer.

And be it Enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the county, riding, division or jurisdiction in which the Lands to be inclosed shall be situate, shall certify any of the public carriage roads to be set out in pursuance of this Act on any Inclosure to be sufficiently formed and completed, such roads shall thenceforth be kept in repair by such persons and in such manner as the public roads within the said parish are or ought by law to be kept in repair; and every such certificate shall, at the Quarter Sessions of the Peace to be holden for the said county, riding, division or jurisdiction, next after the date thereof, be filed of record by the Clerk of the Peace.

65. Private Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may set out such private or occupation-roads and ways through the Lands to be inclosed as he shall think requisite, for the use of the persons interested in such Lands, or any of them; and any expenses which the Valuer may incur relative to the setting out or formation or completion of such private roads and ways, or any of them, shall, unless the Valuer shall otherwise direct, be paid in the same manner as the other expenses of the Inclosure; and such expenses of the formation and completion of such private roads and ways as the Valuer shall direct, shall be borne by, and after the formation and completion of such private roads and ways, the same shall be maintained and kept in repair by and at the expense of the owners and proprietors for the time being of the Land inclosed, or such of them, and in such shares and proportions, and in such manner, as the Valuer shall direct; and after such private roads and ways shall have been set out and made, the grass and herbage arising thereon shall for ever belong to and be for the use of such persons interested in the Lands to be inclosed as the Valuer shall direct; and in the absence of such direction, shall belong to the proprietors of the Land to be inclosed which shall next adjoin the said roads and ways on either side thereof as far as the crown of the road; and all private or occupation-roads or ways over, through and upon the Lands to be inclosed which shall not be set out as aforesaid, shall be for ever stopped up and extinguished.

66. Rights of Common may be suspended.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure at such time as he shall think proper, but with

with the approbation of the said Commissioners under their hands and seal, and before the making of the final award by notice on the church-door, to order all or any part of the rights of sheep-walk, common or other rights in or over the Land to be inclosed, or any part thereof, to be extinguished from such time, or the exercise thereof to be suspended during such time as shall be expressed in such notice, and from the time mentioned in su ch notice such rights shall be extinguished or suspended accordingly ; and if during the suspension or after the extinguishment of any such rights of sheep-walk, common or other rights as aforesaid, any person shall permit his horses, cattle, sheep or swine to go or depasture upon any of the Lands over which such rights shall be suspended or extinguished, it shall be lawful for the Valuer acting in the matter of the Inclosure, or any other person by his order (testified in writing under his hand), or any of the persons interested in such Lands or in the Inclosure thereof, to distrain such horses, cattle, sheep or swine being upon such Lands contrary to such order, and to impound the same until the person so offending shall pay to the person so distraining such sum of money as the Valuer shall, by writing under his hand, have previously ordered, not exceeding *Ten Shillings* for each horse or head of cattle, and *Five Shillings* for each sheep or swine so distrained; and in case the same shall not be paid within *Seven* Days after the same shall have been impounded, the Valuer is hereby authorized, upon proof of such offence having been committed, and of non-payment of the penalty hereby imposed, to cause the horses, cattle, sheep or swine so distrained or impounded, or such of them as he shall think necessary, or any other goods or chattels of the person so offending, to be sold for raising and paying the penalty aforesaid, together with the costs and charges attending such distress, rendering the surplus (if any) to the owner.

67. Course of Husbandry may be directed.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, at such time as he shall think fit, by notice on the church-door, to direct the course of husbandry and the stint or rule of stocking that shall be observed upon the Land to be inclosed until the time when the Inclosure thereof shall be completed, as well with respect to the laying down, ploughing, sowing, fallowing, manuring and tilling thereof, as to the stocking and feeding of the commonable Lands, and fallows or stubbles upon the same; and to direct such recompense to be made as he shall think right to any person injured by such directions, all which directions shall be binding upon all parties interested, their farmers and tenants; and the Valuer shall impose such pecuniary penalties on every person not conforming to such directions as he shall think necessary, not exceeding the sum of *Five Pounds* per acre in the case of cross-cropping, or withholding from the Land its due proportion of manure, or *Ten Pounds* in any other case, for any one offence; and shall also determine in all cases where

the tenant is entitled by agreement or custom to the manure arising from the Lands in his occupation, by whom and in what sum of money such tenant shall be compensated for any such manure left or given up by him; and such penalties and other sums of money shall be recovered in the same manner as by this Act directed for the recovery of penalties.

68. Compensation for growing Crops.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall, by writing under his hand, order what recompense in money shall be made to the owner of any crops growing, according to his agreement or lease, or according to the customary mode of cultivation within the parish in which the Land to be inclosed shall be situate, upon such Land at the time of the division, allotment and inclosure for the said crops, by the person to whom the Land on which such crops are growing shall be allotted; and also what recompense in money shall be paid, and by whom, to any tenant or occupier of Land, as well for the ploughing, tilling, cultivating, manuring or folding any Land to be inclosed for the benefit accruing thereby to the person to whom such Land shall be allotted, or for any loss or disadvantage which any tenant or occupier may sustain by the loss of his following or way-going crops upon the Land to be inclosed; and if in any of the said cases the money to be paid for such recompense be not paid at the time and in the manner ordered by the Valuer, then the same may be recovered by the person entitled thereto from the person liable to pay the same, in the same manner as penalties and forfeitures are recoverable under this Act.

69. Allotment for repair of Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall allot to the Surveyor of the Highways for the time being of the parish in which the Land proposed to be inclosed, or any part thereof, shall be situate, and to his successors for ever, such part of the Land proposed to be inclosed as by the draft award shall have been directed to be appropriated for supplying stone and other materials for the repairs of roads and ways as aforesaid; and such allotments shall be inclosed and fenced as the Valuer shall direct, and shall, from the confirmation of the award, be vested in the Surveyor of the Highways within the said parish for the time being, in trust for the purposes aforesaid; and the grass and herbage of such allotments shall belong to such persons as by the Valuer shall be directed; and if he shall make no such direction, then such Surveyor shall from time to time let the herbage for the most money that can be obtained for the same, and shall apply the rents and profits towards the repairs of the public roads or highways within the said parish; and the said Surveyor shall account for such rents and profits in the same manner as he is by law accountable for other monies that shall come to his hands

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in the capacity of Surveyor of the Highways, and shall be subject to the like penalties for the neglect thereof.

70. Allotments for public purposes.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of the draft award, set out and allot such part of the Lands to be inclosed as by such draft award shall have been directed to be appropriated as a place of exercise and recreation for the inhabitants of the said parish and neighbourhood; and such allotment shall be made and awarded to the Churchwardens and Overseers for the time being of the parish in which the same shall be situated, and shall be held by the Churchwardens and Overseers for the time being of the said parish for the purposes aforesaid, and shall be in the first instance fenced by the Valuer, the expense in such case to be considered part of the expenses of the Inclosure; or by any person to whom adjoining Land shall be allotted as the Valuer may direct; and the fences of such allotment shall for ever afterwards be repaired and maintained by such Churchwardens and Overseers, or by the Churchwardens and Overseers of the several parishes interested therein, in such proportions and manner as shall be directed by the Valuer out of the rents to be received for the herbage of the said allotment, or out of the poor-rate of the said parish or respective parishes or otherwise; and the grass and herbage growing upon such allotment may be from time to time let by the Churchwardens and Overseers, in whom the same shall be vested, and the rents which shall be received by them for the same shall be by them from time to time applied, in the firstplace, in maintaining and repairing the fences of the said allotment, and subject thereto in aid of the rates for the repair of the public highways in the said parish or respective parishes; and the said Valuer shall in like manner, in pursuance of the directions of or in any manner not inconsistent with the directions of the draft award, set out and allot for the other public purposes mentioned in such draft award such parts of the Land to be inclosed as shall have been directed by the draft award to be set apart for such purposes, and such allotments shall be made to such persons respectively, with such regulations and provisions as to the fencing, maintenance, use and enjoyment thereof respectively as the Valuer, with the approbation of the Commissioners, shall direct; and in every case in which the Valuer, with such approbation of the Commissioners, shall not think it necessary or proper to direct the same to be otherwise made, such allotments shall be made to the Churchwardens and Overseers of the poor for the time being of the parish in which such allotments shall be situate; and all allotments which shall be made to the Churchwardens and Overseers under this Act, shall be held by the Churchwardens and Overseers of the poor for the time being in the same manner, and with the same legal powers and incidents, as if the same allotments were Lands belonging to the

parish, but in trust, nevertheless, for the purposes for which the same shall be allotted, and subject to such directions for the maintenance, fencing, management and use thereof as the Valuer, with the approbation of the Commissioners, may think fit.

71. Allotment to Lord.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the payment of the expenses by sale of Land in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall allot and award unto the Lord for the time being of the said Manor so much and such part of the Land proposed to be inclosed as shall in the judgment of the Valuer be equal (quantity and value considered) to such a part of the residue of such Land as shall be proportioned to his right or interest therein, according to the declaration of the draft award, in lieu of his right and interest in the soil of the said Land, exclusive of any other allotments which may be made to such Lord in lieu of or in satisfaction for any other rights or interests in such Land to which he may be entitled, and which shall have been separately mentioned and declared in such draft award; and in case it shall have been declared by the draft award that the right or interest of the Lord has been estimately exclusively of his right or interest in the mines and minerals under the Land to be inclosed, then the Valuer shall and may, on the request in writing of the Lord, reserve or award to the Lord such rights and easements for searching for, working and carrying away such mines and minerals, subject to such provisions for compensation for damage to be done to the surface in the exercise of such rights and easements, as by the Valuer, with the approbation of the Commissioners, shall be thought reasonable.

72. Allotment of residue.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the expenses of the Inclosure by sale of Lands in case the expenses shall be so directed to be paid, the Valuer acting in the matter of the Inclosure shall divide, allot and award all the remainder of the Land to be inclosed unto and amongst the several persons who shall be interested therein, in such shares and proportions as he shall adjudge and determine to be proportionate to the value of the respective rights and interests which shall have been mentioned and declared in the draft award.

73. Separate Allotments to be made in respect of separate Titles.

And be it Enacted, That when any person to whom any allotment shall be made, or Land assigned in exchange by virtue of this Act, shall hold such Land, or the Land in respect of which such allotment or exchange is made under different titles or for different estates, and as to copyhold or customary Land by separate quit-rents, the Valuer in the matter of the Inclosure shall ascertain and distinguish the Land held

held for each of such estates and under each of such titles respectively, and shall accordingly set out distinct and several allotments for such respective Lands, and distinguish the several estates holden by several and distinct quit-rents.

74. Several Allotments may by consent be laid together.

And be it Enacted, That in case any number of the persons interested in the Land to be inclosed shall desire to have their allotments thrown together, and distinguished by metes and bounds, but not fenced from each other, and of such their desire shall give notice in writing to the Valuer acting in the Inclosure, such Valuer shall set out the several allotments of such persons so giving notice as aforesaid, by metes and bounds, but in one parcel of Land, and without requiring them to make any subdivision fences or other fences, save such ring or outer fences as may be necessary, or as the Valuer may direct to be made for dividing the said parcel of Land from the residue of the Land so to be inclosed.

75. Cultivated Land and Buildings to be allotted to the Proprietor.

Provided always, and be it Enacted, That it shall not be lawful for the said Valuer to allot to any other person than the proprietor thereof any Land which may be cultivated as orchard or garden, or on which any building may have been erected, or which may have been inclosed by virtue of any agreement between the proprietor thereof and the persons having right of Common over the same, without the consent in writing of such actual proprietor.

76. Regard to be had to the situation of Homesteads.

And be it Enacted, That the Valuer in making the several allotments hereby directed, shall have due regard as well to the situation of the respective houses or homesteads of the persons interested in the Land to be inclosed as to the quantity and quality of the Land to be allotted to them respectively, so far as may be consistent with the general convenience of such persons; and that such Valuer in making the said Allotments shall have particular regard to the convenience of the persons interested in respect of the smallest estates in the Land subject to be inclosed under this Act.

77. Allotments to be fenced.

And be it Enacted, That the several allotments to be made, except the allotments to the Surveyor and Churchwardens and Overseers respectively, and the other allotments for public purposes, shall be inclosed, ditched and fenced at the expense of the respective persons to whom the same shall be allotted, in such manner and within such times as the Valuer shall direct; and the fences so to be made shall for ever afterwards be repaired and maintained by such persons as the Valuer shall direct; and if from the situation, or from any other circumstance, it shall happen that any person to whom any allotment shall be made, shall not have a fair proportion of the boundary ditches or fences assigned to him to make, it shall be lawful

for the Valuer, acting in the matter of any Inclosure, to ascertain and appoint what sum of money shall be contributed by such person towards making the boundary, ditches and fences of the allotments of such other persons as shall have assigned to them to make too great a proportion thereof; and such money shall be paid to such persons and in such manner as by the Valuer shall be directed, and the same may be recovered in the same manner as penalties or forfeitures are recoverable under this Act.

78. Allotments may be made to purchasers.

And be it Enacted, That if at any time before an allotment shall have been made by the Valuer, any person shall sell his right or interest in the Land to be inclosed or any part thereof to any person, the Valuer shall, upon such sale being certified to him in writing by the vendor, make an allotment of Land to the purchaser or to his heirs or assigns in respect of the right or interest so sold; and every such purchaser or his heirs or assigns shall from the confirmation of the final award hold and enjoy the Land so to be allotted to him in such manner as the vendor might or ought to have done, in case such sale had not been made; and it shall be lawful for any person who shall be entitled to any allotment under this Act, to devise, convey, surrender or otherwise assure the same allotment or all or any part of his interest therein at any time before the confirmation of the final award; and every such devise, conveyance, surrender and assurance shall be of the same validity as if the same had been made after the confirmation of the said award; and it shall be lawful for any person entitled to any allotment to sell, dispose of or convey the estate in right of which he may be entitled to such allotment, separate from and retaining to himself such allotment, or the right thereto; and the Valuer is hereby required to award such allotment accordingly.

79. Allotments to be made to representatives of parties dying.

And be it Enacted, That if any person interested in any Inclosure under this Act shall die before the same shall have been completed, the powers and authorities hereby vested in the Commissioners, Assistant Commissioner and Valuer shall not be thereby determined or suspended, but they shall proceed in the execution of such powers and authorities in such manner as they might have done in case such person had not died; and the allotment which might have been made to the person so dying shall be made to such person as by the law shall become entitled to the same, and shall be accepted and fenced by such party according to the directions contained in the award of the Valuer, and he shall be liable to the charges and expenses and other conditions of the Inclosure.

80. Old Inclosures may be allotted with consent.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in any old inclosed Lands, or Lands holden in severalty, or otherwise not

not subject to be inclosed under the general provisions hereinbefore contained, to order and direct such old inclosed Lands or other Lands as last aforesaid, to be considered as allottable and parcel of the Land to be inclosed; and such allowance shall be made to the person interested in such Lands on account of the situation or other beneficial circumstances thereof as the Valuer shall adjudge to be just and reasonable; and he shall allot and award unto the person so interested in such old inclosed Lands, or other Lands as aforesaid, so much and such part of the Land to be inclosed as he shall think reasonable and just.

81. Allotments to freemen and other classes of persons entitled to common rights.

And be it Enacted, That where by the draft award in the matter of an Inclosure, the freemen or burgesses of any city or borough, or the householders or inhabitant householders of any town or place, or any class or description of such freemen, burgesses, householders or inhabitant householders, or any other persons as a class, shall be declared entitled to rights of common or other rights over the Lands to be inclosed, it shall be lawful for the Valuer to award in respect of such rights an aggregate allotment to any *Two* or more trustees, who shall be nominated by the majority at such meeting as hereinafter mentioned, or in case *Two* or more trustees shall not be nominated at such meeting, then to such trustees as the Commissioners shall approve, with provisions for the appointment of new Trustees from time to time, or to the Churchwardens and Overseers of the Poor of the parish in which the allotments shall be situate, in trust for the parties entitled to the right in respect of which the allotment shall be made; and it shall be also lawful for the Valuer, having regard to such instructions, if any, as may have been resolved on at such meeting as hereafter mentioned, or to such instructions as shall be given by the Commissioners in this behalf, to direct in what manner and under what regulations such allotment shall be occupied or enjoyed by the persons from time to time entitled to the benefit thereof, and (in case the Valuer, having regard to such instructions, shall think fit) to give directions and powers for the letting of such allotment from year to year, or for any term of years, subject to such provisions and restrictions as the said Valuer, with the approbation of the Commissioners, shall think fit, and for the receipt of the money to arise from such letting, and for the application of such money for the benefit of the persons entitled to the benefit of the allotment, and to give all such directions and provisions for the fencing, draining and management of such allotment, as the Valuer may think expedient.

82. Power to sell such allotment.

Provided also, and be it Enacted, That it shall be lawful for the Valuer, with the approbation of the Commissioners, and of such meeting as hereinafter mentioned, to sell and dispose of the whole

or any part of any allotment to which any such class of persons as aforesaid shall be entitled under this Act, and the allotment or any part thereof so sold shall be conveyed by the Commissioners as the purchaser shall direct, and the Commissioners shall sign a receipt for the purchase-money, which shall be a sufficient discharge for the same; and the purchase-money arising from the sale, or the surplus thereof, after payment thereout of any expenses to which the same shall be liable, shall, with the approbation of the Commissioners, be paid to any trustee or trustees upon trust for the investment thereof, with provisions for the appointment of new trustees from time to time, and for the application of the interest and annual produce of such investments to such purposes, for the benefit of the persons who would have been entitled to such allotment, or the part thereof so sold, in case the same had not been sold as the Commissioners shall approve, and by the final award in the matter of such Inclosure direct.

83. Meeting of persons entitled for giving instructions to Valuer.

Provided also, and be it Enacted, That when any class of persons shall be so declared entitled as aforesaid, the Commissioners shall call a meeting of such persons by advertisement, for the purpose of appointing trustees of the allotment to be made for their benefit, and for giving instructions to the Valuer concerning the enjoyment, occupation and management of such allotment, or for letting the same, and for the application of the money to arise from such letting, or in case such meeting shall think fit that such allotment, or any part thereof, shall be sold, for directing the sale thereof, and the investment of the money arising from such sale, and the application of the income thereof; and the Commissioners, having reference to the total number of such class (so far as they may have ascertained the same), shall by such notice declare the number of persons who should be present at such meeting to give validity to the proceedings, and the decision of the majority of such meeting shall bind the minority and all absent parties: Provided always, That no meeting shall be effectual for the purpose aforesaid unless such a number of the said persons shall attend the same as shall be mentioned in that behalf in the advertisement calling the same; and if no effectual meeting shall be held for the purpose aforesaid, or being held, no instructions shall be resolved on by the majority present at such meeting, or in case the Commissioners shall deem such instructions unjust or unreasonable, the Commissioners may give such instructions to the Valuer in respect of the matters aforesaid as they shall think fit, provided that no sale of any such allotment, or any part thereof, shall be made, except in pursuance of a resolution of a meeting called as aforesaid; but a recital in the conveyance by the Commissioners upon any sale, that such sale was duly authorized, shall for all purposes of title be evidence that such sale was made in pursuance of the resolution of a meeting duly called as aforesaid.

And

84. Partitions may be made.

And be it Enacted, That where any persons interested in Land to be inclosed under this Act shall be so interested in undivided shares or as joint tenants, coparceners or tenants in common, it shall be lawful for the Valuer, upon the request in writing of any of the persons so interested in undivided shares, or as joint tenants, coparceners or tenants in common, to make partition of the Lands or allotments coming to such persons so interested, and to allot the same to such persons in severalty; and immediately after the said allotments shall be so made and declared, the same shall be holden and enjoyed by the persons to whom the same shall be allotted in severalty, subject to the same uses as such undivided share would have been subject to in case such partition had not been made; and every such partition shall be specified in the final award, and every such partition shall be good, valid and effectual to all intents and purposes whatsoever.

85. Costs of Partition.

And be it Enacted, That all costs and expenses attending any partition to be made by virtue of this Act, shall be borne and defrayed by the several proprietors of, or persons interested in, the estates which shall be so parted, in such manner and proportions as the Valuer shall order; and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

86. Exchanges.

And be it Enacted, That it shall be lawful for the Valuer to allot and award any Land to be inclosed in exchange for any other Land within the parish in which the Land to be inclosed shall be situate, or any adjoining parish: Provided always, That all such exchanges be made with the consent in writing of the persons interested in the Lands so exchanged, and every such exchange so to be made shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be specified and declared in the final award: Provided also, That no exchange shall be made of any Land held in right of any church or chapel or other ecclesiastical benefice without the consent, testified in writing, of the bishop of the diocese in which such Lands shall be situate: Provided also, That all costs and expenses attending the making and completing of any such exchanges shall be borne by the several parties making such exchanges, in such manner and in such proportions as the Valuer shall direct; and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

87. Wills and Settlements not to be affected.

And be it Enacted, That nothing in this Act contained shall extend to revoke, make void or alter any will, settlement, uses or trusts, or to prejudice any person having any right or claim of dower, jointure, annuity, portion, debt, charge, rent or incumbrance upon or affecting any of the Land to be inclosed, or which shall be

exchanged or given in partition in pursuance of this Act; but as well the Land allotted as the Land which shall be assigned in exchange, partition, or as a compensation for any other estate or right by virtue of this Act, shall immediately after such allotment, exchange or partition, be and enure, and the several persons to whom the same shall be allotted or given in exchange or partition as aforesaid, shall thenceforth stand and be seised and possessed thereof respectively to and for such and the same estates, uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances as the several Lands or undivided shares thereof in respect whereof such allotments, exchanges and partitions shall have been made would have stood limited to and for, or been subject to, in case the same had not been allotted, exchanged or given in partition as aforesaid, and as if this Act had not been made, save and except such leases and tenancies at rack-rents as shall become void by virtue of this Act, and any joint tenantcy which may have been severed by partition as aforesaid, and such rights of common and other rights as are intended to be extinguished by the Inclosure, and subject nevertheless to all such mortgages and sales as shall be made by authority of this Act.

88. Tenure of the Allotments.

And be it Enacted, That all such Land as shall be taken in exchange or on partition or be allotted by virtue of this Act, shall be held by the person to whom they are given in exchange or on partition or allotted, under the same tenures, rents, customs and services as the Land in respect of which such Land shall have been given in exchange or on partition or allotted, would have been held in case no such exchange, partition or inclosure had been made; and the Land taken in exchange or on partition or allotted in respect of freehold shall be deemed freehold, and the Land taken in exchange or on partition or allotted in respect of copyhold or customary Land, shall be deemed copyhold or customary Land, and shall be held of the Lord of the same Manor under the same rent and by the same customs and services as the copyhold or customary Land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary Land in respect whereof such exchanges, partitions or allotments shall be made, and as to copyhold or customary allotments without any new admittance in respect of the lands taken or allotted respectively; and the Land given in exchange or on partition or allotted in respect of leasehold Land, shall in like manner be deemed leasehold, and shall be held under the same rents and covenants as the Land in respect of which it may have been allotted was held; and the remainder or reversion thereof shall be vested in the same lessor respectively as the remainder or reversion of such other Land was vested before the exchange, partition or allotment, except where otherwise particularly directed by this Act.

And

89. Leases at Rack-rent may be voided.

And be it Enacted, That immediately after the allotments herein directed to be made on any Inclosure shall have been marked and staked out, the Valuer acting in the matter of such Inclosure may direct the same to be entered upon by the persons respectively for whom the same shall be intended; and immediately after the Valuer shall so direct them to be entered upon, all leases, agreements and tenancies at rack-rent subsisting of any part of the Land to be inclosed, or which shall be exchanged in pursuance of this Act, or any common right thereon, shall, so far only as respects the Land to be divided and allotted or exchanged or common right, cease and be void at such time or times as the Valuer shall, by writing under his hand, direct or appoint, so as the respective lessors or landlords of such Land do, before or at the respective times at which such leases, agreements or tenancies shall be directed to cease, make and pay such satisfaction to the respective lessees or tenants for the loss which shall be sustained by the determination of such leases, agreements and tenancies respectively, so far as regards the Land or common right, the leases, agreements and tenancies whereof are hereby authorized to be determined as shall be mutually settled and agreed between them, or as the Valuer, being required by either of the parties, shall ascertain and direct; and the Valuer, being so required, is hereby empowered and directed, by writing under his hand, to apportion a reasonable and proportionable part, having regard to the season of the year, of the rent reserved on any such lease, agreement or tenancy for or in respect of the time which shall have elapsed between the last day on which any payment of the rent shall have become due and the determination of any such lease, agreement or tenancy, and such part of the rent shall be recoverable by such ways and means as may by law be used for the recovery of rent in arrear; and the Valuer is hereby empowered and directed, in every case where such Land or common right shall be held by virtue of any such lease, agreement or tenancy, together with other Lands or hereditaments, by one entire rent, by writing under his hand, to apportion and determine what part of such rent shall be deducted in respect of the Land or common right in such lease, agreement or tenancy comprised, as to which the same shall be determined as aforesaid, and from what time such deduction shall take place; and the rest of the rent reserved on any such lease, agreement or tenancy shall during the remainder of the term thereof be the rent of and for the residue of such Lands and hereditaments, and shall be payable and recoverable in like manner as the entire rent reserved by such lease, agreement or tenancy shall immediately before such apportionment be payable and recoverable; and the lessor or reversioner shall in respect of such apportioned rent, and in respect of the residue of such Lands and hereditaments, have the benefit and advantage of the provisoes and conditions which would have been applicable to the

entire rent, and to all the Lands and hereditaments comprised in such lease, agreement or tenancy in case such lease, agreement or tenancy had not been determined as to any part of such Land.

90. Trees to be allotted with the Land.

And be it Enacted, That the timber-trees and other trees and underwood standing and growing upon any Land to be inclosed shall be allotted and go along with the Land whereon they respectively stand, and shall be deemed the property of the several persons to whom the same Land shall be respectively allotted, such person paying to the owner of such trees and underwood such sums of money for the same, and at such time or times and place or places, as the Valuer shall by writing under his hand direct; but if the parties who are to make such respective payments shall neglect or refuse to make the same accordingly, then it shall be lawful to and for the respective parties who shall be entitled to have and receive such payments to enter on the said Lands, and cut down, take and carry away to their own use the said trees and underwood in respect of which the said payments were respectively to be made to them at any seasonable time or times within *One* Year next after such neglect or default, doing as little damage on the Land as may be.

91. Cattle not to be depastured on Roads.

And be it Enacted, That no person shall graze or keep any horse, beast, cattle, sheep or swine upon any of the roads or ways which the Valuer shall order to be set out, and which shall be fenced on both sides for the space of *Seven* Years next after the execution of the final award; and every owner of Land to be inclosed, his servants and labourers, and also every peace officer and parish officer of the parish in which the Land shall be situate for the time being, is hereby empowered to take and impound any such horse, beast, cattle, sheep or swine which shall be found so grazing as aforesaid, as cattle damage feasant: Provided always, That nothing herein contained shall prevent the proprietors of the Land which shall next adjoin the private roads and ways from depasturing their cattle thereon, so far as the frontage of their respective Land extends.

92. Alteration may be made in Allotments.

And be it Enacted, That it shall be lawful for the Valuer acting in any Inclosure, at any time before the confirmation of the final award, with the approbation or by the direction of the Commissioners, to make any alterations which he may think right and expedient in the allotments or in the fences which he may have set out and ordered, or in the private roads he may have set out, or in any of the orders or directions relating thereto which he may have made in the matter of such Inclosure; and in case any person shall be injured by any such alteration on account of any expenses he may have incurred or otherwise, the Valuer shall ascertain and determine what recompense shall be made to him for such injury, and shall either pay the amount thereof out of the monies raised for the expense of the Inclosure, or shall

shall direct by whom and in what manner such recompense shall be made; and in case of non-payment thereof, the same shall be recovered in the same manner as penalties and forfeitures are recoverable under this Act.

93. Report of the Valuer.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall as soon as conveniently may be, after the division and allotment of the Land to be inclosed shall be completed, draw up a report in writing, with a map thereunto annexed, which shall specify all the allotments, exchanges and partitions made in the matter of such Inclosure, and all roads, ways and works set out or directed to be made by the said Valuer; and such report shall contain all such particulars in relation to such allotments, roads, ways and works as are by this Act directed, and all such other directions and determinations authorized by this Act, as the said Valuer shall think proper for the purposes of the Inclosure; and the map to be annexed to such report shall comprise and show the Land to be inclosed and the Lands exchanged, and also the Lands in respect of which any allotments of the Land inclosed shall have been made, and shall distinguish by proper references the allotments made in respect of the several Lands respectively, and such other particulars as the Commissioners shall by any general or special instructions in relation to such report direct the Valuer to set forth therein; and such report shall be signed by the Valuer, and shall, together with the map thereunto annexed, be sent to the Office of the Commissioners.

94. Deposit of Report.

And be it Enacted, That as soon as the report of the Valuer shall have been sent to the Commissioners, they shall cause a copy of the same to be deposited at some convenient place within the parish in which the Land to be inclosed or some part thereof shall be situate, for the inspection of all persons interested in such Land; and shall forthwith cause notice to be given in such manner as to them shall seem fit, where the said copy may be inspected; and shall also in such notice appoint some convenient place, and such times as they shall think necessary (the first not earlier than *Twenty-one* Days from the first giving of such notice), for holding a meeting to hear objections to any allotment, direction, determination or matter in the report; and the Commissioners or some Assistant Commissioner at such meeting as aforesaid, shall hear and determine any objections which may be then and there made to any such allotment, direction, determination or matter by any person interested therein, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting; and may, if they or he shall see occasion, direct any further valuation or survey of the Land or any part thereof, and take such other measures for ascertaining the justice and propriety of the determinations and directions of the Valuer, as to the Commissioners or Assistant Commissioner shall seem proper; and from time to time, if they or he shall see occasion, fix further meetings for the hearing and

determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed, with regard to the original meeting; and when the said Commissioners or Assistant Commissioner shall have heard and determined all such objections, and made such inquiries as the Commissioners shall think fit in relation thereto, the Commissioners shall approve such report, or cause the allotments, directions, determinations and matters therein mentioned, or any of them, to be amended as they shall see occasion.

95. Final Award.

And be it Enacted, That after such proceedings as aforesaid shall have been had, and all such objections to such report (if any) shall have been finally disposed of, and such amendments (if any) shall have been made in the allotments, directions and matters therein contained as aforesaid, the Commissioners shall cause to be drawn up and engrossed on parchment the final award in the matter of such Inclosure, which shall contain or set forth the draft award in the matter of such Inclosure, and also such report if so approved as aforesaid, or the allotments, exchanges, directions and matters therein contained as the same shall have been amended as aforesaid, and shall annex to such engrossment the map referred to by such report as aforesaid; and shall confirm such final award, with the date of such confirmation thereunto annexed, under the hands and seal of the Commissioners.

96. Final Award conclusive.

And be it Enacted, That such confirmation as aforesaid shall be conclusive evidence that all the directions of this Act in relation to such final award, and to every allotment, exchange, partition and matter therein set forth and contained, which ought to have been obeyed and performed previously to such confirmation, shall have been obeyed and performed; and no such final award shall be impeached by reason of any mistake or informality therein, or in any proceeding relating thereunto, or on account of any want of any notices or consents required by this Act, or on account of defects or omissions in any previous proceeding whatever in the matter of the Inclosure; and every allotment, exchange, partition, direction, matter and thing specified and set forth in such final award as aforesaid, shall be binding and conclusive on all persons whomsoever.

97. Allotments to be in compensation of previous rights.

And be it Enacted, That the several allotments which shall upon any Inclosure under this Act be allotted to the several persons who shall be entitled to the same, shall when so allotted be and be taken to be in full bar of and satisfaction and compensation for their several and respective Lands, rights of Common, and all other rights and properties whatsoever, not excepted or reserved by this Act, or by the final award in the matter of such Inclosure, which they respectively had or were entitled to in and over the said Lands immediately before such Inclosure; and that from and immediately after the confirmation of the final

final award by the Commissioners, or at such earlier time as the Valuer, with the approbation of the Commissioners, shall by notice on the church-door direct, all rights of Common, and all rights whatever by the Inclosure intended to be extinguished, belonging to or claimed by any person whomsoever in or upon such Lands, shall cease, determine and be for ever extinguished.

98. Allotments may be subdivided by supplemental order.

Provided always, and be it Enacted, That when any final award so confirmed as aforesaid shall not have distinguished the several tenures of any of the Lands therein mentioned, or the different estates or titles for or under which the same shall be held, or shall have set out and awarded an aggregate allotment in any case in which there should have been set out and awarded several and distinct allotments, it shall be lawful for the Commissioners at any time within *Twelve* Months after the confirmation of the award, upon request in writing to them made by any person interested in any such aggregate allotment, to do all such acts as may be necessary for supplying such omission, and for subdividing such aggregate allotment, and for that purpose to examine witnesses, and proceed as if the said award had not been confirmed; and by any order or instrument under their hands and seal, to subdivide any aggregate allotment into separate allotments, and to distinguish and set out the allotments and Lands held by different tenures, and also the allotments and Lands held by, for or under different estates or titles respectively, in the same manner as by this Act is authorized and required to be done in cases where such allotments and Lands are directed to be ascertained, distinguished and set out by the Valuer; and every such separate instrument shall have the same power and effect as if it were contained in the said award; and such instrument shall be engrossed and deposited with the final award, and shall thenceforth be deemed to be part thereof to all intents and purposes; and all the expenses which shall be reasonably incurred in or about any such subsequent inquiry or separate instrument as aforesaid, and the engrossment thereof, shall be paid by the party who shall have requested the Commissioners to make and execute the same, or by his executors or administrators.

99. Regulated Pastures may be set out.

And be it Enacted, That it shall be lawful for the Commissioners acting in the matter of any Inclosure, on the application in writing of persons interested in any Land subject to be inclosed under this Act, whose interest shall exceed in value *One-half* of the whole interest in such Land (such application to be made at any time before the instructions to the Valuer shall have been delivered to him by the Commissioners under the provisions hereinbefore contained), to direct such Land or any part thereof to be converted into and used as a regulated pasture, to be stocked and depastured in common by the persons interested therein in proportion to their respective rights and interests, as the same shall have been or shall be determined by such

draft award as aforesaid; and in case part of such Land only shall be so directed to be stocked and depastured in common, the Valuer shall, subject to the instructions which shall be given to him under the provisions of this Act, ascertain and set out the part which shall be so used as a regulated pasture, and shall direct how and at whose expense the same shall be fenced and divided from the residue of such Land; and the Valuer acting in the matter of such Inclosure shall in every case where Land shall be so directed to be used as a regulated pasture, ascertain and allot the respective stints or rights of pasturage (specifying the respective numbers of the respective kinds of stock or animals to be admitted to the pasture in respect of such respective stints or rights of pasturage, with such option as to equivalent numbers of the respective kinds of stock and animals as he shall think just, and if he shall think fit, specifying the time during which such stock or animals may be kept on the pasture), as he shall adjudge and determine to be proportionate to the value of the respective rights and interests of the persons interested as aforesaid, which shall have been mentioned and declared in the draft award; and the Commissioners shall frame such directions as they shall think fit for guiding the Valuer in the correct specification of such stints or rights: Provided always, That in every case in which part only of the Land subject to be inclosed under this Act shall be so directed to be used as a regulated pasture, and the residue thereof to be divided and allotted in severalty, it shall be lawful for such Valuer, having regard to the convenience of the persons interested in such Land, to award to any person whose right and interest shall have been mentioned and declared in the draft award, either a stint or right of pasture, or an allotment in severalty only, or both a stint or right of pasture and an allotment in severalty, so as such stint or right only or such allotment only, or (as the case may be) such stint or right and allotment together, be in the judgment of the Valuer proportionate to the right and interest in respect of which the same shall be awarded: Provided also, That in any case in which it shall appear to the Valuer that the proportionate right or interest of any person is too small to be conveniently compensated by a stint or right of pasture, or that it is not practicable wholly to compensate such person by a stint or right of pasture, and the circumstances of the Inclosure will not admit, in the judgment of the Valuer, of an adjustment or compensation by an allotment in severalty, it shall be lawful for such Valuer, for the purpose of compensation or adjustment, to direct a sum of money to be paid to such person in lieu of or (as the case may require) in addition to the award of a right of pasture or stint; and such sum of money shall be paid out of the monies applicable to the payment of the expenses of the Inclosure.

100. Conversion into regulated Pasture to be deemed an Inclosure.

And be it Enacted, That all the provisions and powers hereinbefore contained in relation to public and private roads, ways and works, and all

all other the powers, provisions and directions, penalties and forfeitures applicable to the case of an Inclosure under this Act, and the provisions and directions concerning the report of the Valuer and the approval thereof, and the amendment of the matter thereof, and the final award and the confirmation thereof and the effect thereof, shall be applicable to the case where the Land subject to be inclosed shall be directed to be used as a regulated pasture; and the word "Inclosure" shall in every case in this Act, where the context is not repugnant to such construction, include the conversion of Land subject to be inclosed into such regulated pasture, and the proceedings in relation thereto.

101. Rule of Rating to be established.

And be it Enacted, That in every case in which Land shall be directed to be converted into and used as regulated pasture under this Act, the Valuer acting in the matter of the Inclosure shall determine and direct the proportionate shares or aliquot parts which the respective owners, for the time being, of the several stints or rights of pasture shall be liable to pay of any sum of money which shall be raised by way of rate on such owners under the provisions of this Act; and such determination and direction, in case the same shall be approved, or as the same may be amended by the Commissioners, shall be for ever after observed in every rate to be made under the provisions of this Act, and shall be the rule also, according to which the proportionate values of the stints shall be determined in taking the votes of the owners of stints under the provisions hereinafter contained.

102. Property of Soil of regulated Pastures.

And be it Enacted, That the right of soil of and in all Land which shall be converted into regulated pastures, shall, subject to the right of the Lord of the Manor to the mines and minerals where the same shall be reserved to him under this Act, and to the other rights given or reserved by this Act and the final award in the matter of such Inclosure, be vested in the persons who, under the directions and determinations of such final award, shall be the owners of the stints or rights of pasture therein, in proportion to the shares or aliquot parts which such stints shall be thereby declared liable to of any rate under this Act as tenants in common.

103. Election of Field reeves.

And be it Enacted, That where any Land shall have been converted into a regulated pasture under the provisions of this Act, a meeting shall be called by the Commissioners of the owners of the stints or rights of pasture at such time after the confirmation of the final award as the Commissioners shall, by notice on the church-door, appoint; and the major part in value of such owners present at such meeting shall elect a fit person or persons to be field reeve or reeves of such regulated pasture, and every field reeve so to be elected as aforesaid, or to be elected or re-elected at any subsequent meeting, shall continue in office until the expiration of *Fifteen* Days after the day of the annual meeting of such owners then next following, and no

longer, unless he shall be re-elected at such annual meeting; and such owners shall ever after such first meeting meet for the election of a field reeve or field reeves on the First Monday in February in every year, and the owners assembled at such meetings shall from time to time fix, increase or diminish the salary or payment to be made to every such field reeve, and may appoint or authorize any field reeve to appoint and employ herds and assistants as such owners may think fit; and any such field reeve may be removed by *Four-fifths* in value of the owners of stints present at any meeting called for the purpose by *Fourteen* days' notice on the church door, under the hands and seals of any Two Justices of the Peace; and in case any such field reeve shall die while he shall hold such office, or shall be removed as aforesaid, it shall be lawful for the majority in value of owners of stints or pastures present at any meeting, which upon such vacancy any Two owners may call, by *Fourteen* days' notice on the church-door, to appoint a field reeve in his place, who shall hold the office until the expiration of *Fifteen* Days after the then next annual meeting; and a certificate in writing, under the hands and seals of Two Justices of the Peace of the election of any field reeve (which certificate any Two Justices of the Peace are authorized, if they think fit, to give on the request and upon the declaration of any owner of such stints present at the meeting at which the election shall have taken place), shall in all matters and proceedings whatsoever, in which any acts done by any field reeve in the execution of his office shall be in question, be evidence that he was duly appointed field reeve.

104. Duties of Field reeves.

And be it Enacted, That the field reeve or reeves for the time being of every such regulated pasture shall, subject to such orders and instructions in writing as may from time to time be agreed on by the majority in value of the owners of such stints as aforesaid, at their yearly meetings, regulate the times in each year during which stock or animals shall be admitted to and excluded from such regulated pasture, and shall maintain and keep in order the fences, gates, ditches, drains, watercourses, embankments, jetties and weirs, or make any new fences, gates, ditches, drains, watercourses, embankments, jetties or weirs, and do all works necessary for the maintenance and improvement and good order of such regulated pasture; and shall and may distrain all stock and animals found thereon, contrary to the regulations of such pasture, and do all other acts for the maintenance and improvement of such regulated pasture, and the convenient use and occupation thereof, as the field reeve or reeves, subject to such instructions as aforesaid, may think fit; and where there shall be any buildings on such regulated pasture, or where the majority in value of the owners of stints at any yearly meeting shall direct that any buildings be erected thereon, such field reeve or reeves shall or may maintain and keep in repair such buildings, or cause such buildings to be erected in pursuance of such direction, and let the same from year to year, or under such instructions

instructions as aforesaid, for any term of years, and shall receive the rents thereof; and such rents shall be applicable in the first place to the same purposes as the rates hereinafter authorized to be raised on the owners of stints are made applicable, and the residue (if any) shall be paid to the owners of stints in proportion to the respective liability of their stints to such rates.

105. Provision for rateable increase or diminution of rights.

And be it Enacted, That when it shall appear to the majority in value of the owners of stints present at any annual meeting that the condition of the pasture would admit of an increase of the respective rights of pasture thereon, or would require a diminution of such respective rights, it shall be lawful for such majority of the owners so present to direct that the respective number of stock or animals to be admitted to the pasture in respect of the several rights be increased, or, as the case may be, diminished, rateably, to such extent as they shall think fit: Provided always, That in case it shall happen that the right of any such owner shall not be sufficient to admit of a rateable increase or diminution, such annual money-payment shall be made to such owner in lieu of increase of his right, or, as the case may be, charged on such owner in lieu of the diminution of his right, as such majority shall award; or in case the person to or on whom such money-payment shall be awarded or charged shall think the sum awarded insufficient, or the sum charged excessive, then as any Two Justices of the Peace shall, upon the complaint of such person, and after summons of the field reeve or one of the field reeves of such pasture, which may be in the form in the Schedule to this Act, and on hearing in a summary way the matter in difference, think reasonable, and order to be paid, and such order may be in the form in the Schedule to this Act; and every such money-payment payable in lieu of increase of right shall be paid annually by the field reeve out of the monies raised by the rate made for the expenses of such regulated pasture; and the money charged on any such owner shall be recoverable as a rate on owners of stints is hereby made recoverable; and all annual payments payable as aforesaid, shall be payable on the First Monday in February in every year.

106. Expenses to be raised by Rate.

And be it Enacted, That all salaries and allowances to field reeves and other persons and all expenses in and about the management of every such regulated pasture, and the repairs and erection of buildings thereon, under the directions of such meetings of owners as aforesaid, and all other expenses of such regulated pasture, shall be paid and defrayed by the owners of the respective stints therein; and for that purpose it shall be lawful for the field reeve, or one of the field reeves, under the directions of any such meeting of owners, from time to time to make a rate on the respective owners for such sum as the majority of owners present at such meeting shall think requisite; and every such rate shall be apportioned and paid by the owners according to the rule of rating established

lished for such regulated pasture, and shall be paid to the field reeve on demand thereof; and in case the same shall not be paid within *Fourteen* Days after demand thereof, shall be recoverable by distress; and it shall be lawful for any field reeve to exclude from such regulated pasture the stock or animals of any owner or his tenant whose proportion of the rate shall be in arrear and unpaid for *Fourteen* Days after demand thereof, until the proportion of such rate so in arrear shall be fully paid; and any such demand or distress may be made of or on the occupier of any such stint as if the occupier were the owner liable to the payment of such rate, and such rate may be paid by any such occupier on demand thereof, and the money so paid by such occupier shall be deemed a payment on account of his rent, and shall be allowed by his landlord accordingly.

107. Power to apply the Act to Pastures already stinted.

And be it Enacted, That where any Land shall be already occupied as a gated or stinted pasture, and any of the persons interested in such gated or stinted pasture, whose interests shall not be less in value than *Two-thirds* of the whole interest therein, shall be desirous that such gated or stinted pasture should be subject to the provisions of this Act concerning regulated pastures, without being subject to the other provisions concerning lands subject to be inclosed under this Act, and shall make application in writing to the Commissioners to take proceedings for that purpose, it shall be lawful for the Commissioners, or an Assistant Commissioner, to make such inquiries as may appear necessary to the Commissioners, to ascertain the proportionate rights and interests of the several persons interested in such gated or stinted pasture, and the Commissioners or Assistant Commissioner shall frame, or cause to be framed, a draft award containing a declaration of the proportionate rights of such persons so interested; and shall also cause to be ascertained by any Valuer to be appointed or approved by the Commissioners for that purpose, the respective rights of pasture to which, having reference to the productiveness of such gated or stinted pasture, the several persons interested therein may, in the judgment of such Valuer, be entitled, together with such declaration as hereinbefore mentioned as to the proportionate liability to rates under this Act, of the occupiers of stints or rights of pasture, and in like manner as in case of the conversion into regulated pasture of Land subject to be inclosed upon an Inclosure under this Act; and the Commissioners shall hear, or cause to be heard by an Assistant Commissioner any objections to the draft award and to the report of the Valuer respectively, and approve or amend the draft award and such report respectively, as they shall think fit; and the Commissioners shall frame and cause to be engrossed a final award, setting forth such draft award and the matter of such report respectively, and shall confirm the same, with the date of the confirmation under their hands and seal; and from and after the confirmation of such award, such gated and stinted pasture

shall

shall be subject to all the provisions herein contained concerning Land subject to be inclosed, converted into and used as regulated pasture, and shall be rateable under such provisions according to the rule of rating as set forth in such final award, and such final award shall be as binding and conclusive as if the same had been made and confirmed on an Inclosure under this Act.

108. Expenses of application of Act to Pastures already stinted.

And be it Enacted, That all the expenses of or attending the proceedings for subjecting Lands already used as gated or stinted pasture, to the provisions of this Act, concerning Lands subject to be inclosed, converted into or used as regulated pasture, shall be paid and borne by the persons interested therein, in proportion to their respective liabilities to rates under this Act, according to the rule of rating established in respect of such gated or stinted pasture under this Act; and shall be paid at such time and place, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and shall be recoverable in such and the same manner as the expenses of an Inclosure made in pursuance of this Act.

109. Power to enter Land for Surveys, &c.

And be it Enacted, That for surveying and valuing any Land to be inclosed or otherwise dealt with under this Act, and for the other purposes of this Act, it shall be lawful for the Commissioners or an Assistant Commissioner or Valuer, or any person or persons to be appointed by such Commissioners, Assistant Commissioner or Valuer to make any survey, admeasurement, plan or valuation with assistants and servants, and at any time or times whatsoever, until the Inclosure or other proceedings under this Act shall be completed, to enter into, view and examine, survey or admeasure all and every part of the Land to be inclosed or dealt with, and also any Lands necessary or proper to be surveyed or valued for the purposes of such Inclosure, and to do or cause to be done any act or thing necessary for putting this Act into execution.

110. Expenses of Inclosures.

And be it Enacted, That the allowances and payments to be made to and by the Valuer, and all other the expenses of every Inclosure, except the allowances and salaries to the Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers of the Commissioners, and the travelling and other expenses of the Commissioners and Assistant Commissioners, and except any expenses which the Commissioners or Assistant Commissioner, or any court under the powers of this Act shall order to be otherwise paid, shall be borne and defrayed by the several persons interested in the Lands to be inclosed (except the Surveyors of Highways, Churchwardens and Overseers and persons to whom Lands shall be allotted for public purposes, in respect of the allotments hereinbefore authorized or

directed to be made to them respectively), in such shares and proportions, and shall be paid at such time and place, or respective times and places, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and such Valuer shall give notice requiring payment of the respective shares and proportions of such expenses on the church-door, or deliver to the respective persons liable to the payment of such expenses, at least *Fourteen* Days before the time appointed for such payment, a copy of such order; and the Valuer shall from time to time make estimates of all such expenses, and raise the amount of such estimates at such times as he shall, with such approbation of the Commissioners, deem proper, either before or after the confirmation of the final award.

111. Remedies in case of non-payment of Expenses.

And be it Enacted, That if any person shall refuse or neglect to pay his proportion of such expenses within such time and to such person as the Valuer shall appoint, it shall be lawful for the Valuer to recover the same, together with lawful interest, to be computed from the day on which the same ought to have been paid, by action at law in his own name, in any of Her Majesty's Courts of Record at Westminster; or it shall be lawful for him by warrant directed to any person whomsoever, to cause the same, with such interest thereon as aforesaid, to be levied by distress, or it shall be lawful for the Valuer, or any person authorized by him immediately after such neglect or refusal, to enter into and upon the premises so to be allotted to such person, and demise the same, or to demise any stint or right of pasture allotted to such person, and receive the rents and profits thereof respectively, until thereby or otherwise such share or proportion, with lawful interest as aforesaid, and also all the costs and expenses attending such entry upon, and demise and receipt of the rents and profits of the said premises, shall be fully paid and satisfied.

112. Power to make additional Rate.

Provided always, and be it Enacted, That if at any time after the allotments shall have been staked out it shall appear to the Valuer, either before or after the confirmation of the final award, that the money to arise by any previous rates will not be sufficient to defray the expenses aforesaid, the deficiency shall, with such approbation of the Commissioners as aforesaid, be made up and raised from time to time by a rate to be made and levied upon the several persons interested in the Lands to be inclosed (except as aforesaid), in such shares and proportions, within such time, and to be paid to such persons as the Valuer shall from time to time direct; and in case any persons hereinbefore made subject to the payment of any money towards such expenses shall neglect or refuse to pay his share or proportion of any such rate within the time appointed for that purpose, or at any time after such demand, the same shall be levied and recovered in the manner directed by this Act with respect to the previous rate.

And

113. Commissioners may remove Valuers.

And be it Enacted, That if any Valuer chosen or appointed to act in the matter of any Inclosure or other matter under this Act shall, before his duties shall be fully performed, refuse to attend to or become by sickness or otherwise incapable to act in such matter, or shall in the judgment of the Commissioners neglect his duties, or misconduct himself in his office, or become incapable or unfit to act as a Valuer under this Act, it shall be lawful for the Commissioners, by order under their hands and seal, to remove him from the office of Valuer; and if any Valuer shall be so removed, or shall die, it shall be lawful for the Commissioners, by order under their seal, to appoint a Valuer in his stead; and the Valuer so appointed shall have the same powers as if he had been chosen at a meeting of the persons interested in the Land in manner hereinbefore directed.

114. Repayment to Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour and expenses of the Assistant Commissioners, and all other persons employed and paid by the Commissioners in or about any Inclosure, exchange, division, partition or other proceeding under this Act, by any order under their hands and seal, to order and declare that a sum, in such order to be mentioned, be paid to the Commissioners in respect of the proportion of the general expenses of the Commissioners which ought to be borne in respect of such Inclosure, exchange, division, partition or other proceeding; and the Commissioners shall by such order declare such sum to be charged on the persons interested in the Land to be inclosed, or to which such proceeding shall relate, in such shares as they shall think just, and shall appoint a time for payment thereof; and the same shall be raised in the same manner as the expenses of the Inclosure, or of subjecting the Land to the provisions concerning regulated pasture, are directed to be raised under this Act, and be deemed part of the expenses of the Inclosure or matter aforesaid, or in the case of an exchange, division or partition, in the same manner as the expenses of such exchange, division or partition, and when raised shall be paid to the Commissioners, who shall forthwith pay the same into Her Majesty's Exchequer, to be carried to the account of the Consolidated Fund.

115. Persons attending Meetings to pay their own Expenses.

Provided always, and be it Enacted, That the several persons interested in the Inclosure or other proceeding under this Act, and their respective agents, shall pay their own expenses whenever they shall attend any of the meetings to be held in the matter of any Inclosure.

116. Expenses of Witnesses.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court-rolls and writings, maps, plans and surveys,

or copies thereof, and all other expenses, (except the salary or allowance to any Assistant Commissioner) incurred in the settlement of any suit or difference, or in the hearing and determining any objection to any award or apportionment before the said Commissioners, or any Assistant Commissioner, to be paid by such parties interested in the production thereof respectively; or in the event of such suit, difference or objections, and in such proportions as the Commissioners or Assistant Commissioner shall think fit and reasonable.

117. Power to mortgage Allotments.

And be it Enacted, That it shall be lawful for the respective persons interested in allotments in severalty, or allotments of stints or rights of pasture respectively, to be made under this Act, being tenants for life or in tail, or for any other estate of freehold or inheritance, and also for the husbands, guardians, trustees, committees or attornies of any of the proprietors being under coverture, infants, lunatics, idiots, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, and for the trustees or feoffees for charitable, parochial or other uses, or the majority in number of them in respect of any Lands held by them in trust for any charitable, parochial or other uses (with the consent of the Commissioners testified in writing under their hands and seal), from time to time to charge their respective allotments with any money not exceeding as to any allotment in severalty *Five Pounds* per acre, towards their respective proportions of the Inclosure expenses, and for securing the repayment of such money with interest to mortgage or demise the said allotments unto or in trust for any person who shall advance any money for any term of years, but so that every such mortgage or demise be made with a condition to cease, or upon trust to be surrendered or assigned when the money thereby to be secured, with all interest thereon, shall have been fully paid; and so that in every such mortgage or demise which shall be made by or on behalf of any person entitled to any such allotment for the term of his natural life, there be contained a covenant to pay and keep down the interest of the money to be secured during his life, in such manner that no person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger arrear of interest than for *Six* Months previous to the time when the title of such person shall accrue or commence; and every such mortgage or demise shall be valid in the law for the purposes thereby intended; and every such mortgagee and his assigns shall have the like remedies in case of non-payment of the monies thereby secured, as in the case of other mortgages of the like nature.

118. Power to sell parts of Allotments.

And be it Enacted, That it shall be lawful for the Commissioners on application made to them in writing by any of the proprietors of allotments to be made by virtue of this Act, or by any of the husbands, guardians, trustees, committees or attornies of or for any of such proprietors

proprietors being under coverture, minors, idiots, lunatics, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, or by any of the said proprietors being tenants in tail, or for life or by any trustees or feoffees for charitable, parochial or other uses, or by the majority in number of them, direct a sale of any part of any such allotment for raising a sum of money sufficient to defray the proportionable part of the expenses which shall in such rates be charged upon such parties, and of the expenses of making and completing such sale: Provided always, That in all cases in which the money so raised by any such sale shall not be equal to the money which might be borrowed or charged on such allotment as aforesaid, it shall be lawful for the proprietor, part of whose allotment shall be sold as aforesaid, to charge his allotment with any sum not exceeding the difference.

119. Sales of parts of Allotments how to be made.

And be it Enacted, That such sales shall be made by the Valuer, with the approbation of the Commissioners in the same manner and subject to the same regulations as are hereinafter prescribed in respect of the sale of part of the Land subject to be inclosed towards defraying the expenses of the Inclosure; and every part of an allotment for which the full purchase-money shall be paid, shall be conveyed by the Commissioners at the expense of the purchaser as he shall appoint, and shall be inclosed and held by such purchaser in severalty: Provided always, That nothing herein contained shall enable the Commissioners to convey any allotments set out by them as copyhold or customary as freehold, but such copyhold or customary allotments shall be held by the purchaser thereof by, under and subject to the same rents, suits and services as such allotment would have been held, in case no such sale had been made.

120. Commissioners to receive and apply Purchase-money.

And be it Enacted, That the receipt of the Commissioners shall be a sufficient discharge to the purchaser for the said purchase-money; and such purchase-money shall be applied by the Commissioners in or towards defraying the costs and expenses for raising which such sale shall have been made; and the surplus (if any) shall be paid to the parties from whose allotments such sale shall have been so made respectively; and the shares of such of them as shall be tenants in fee-simple shall be paid to them respectively, and the shares of the other proprietors of such surplus money shall be applied and disposed of in manner hereinafter directed.

121. Application of Compensation Money of Parties under disabilities.

And be it Enacted, That when any money is under the provisions of this Act directed to be paid for the purchase of any timber or wood growing on any Land, which shall belong to any tenant for life or in tail, or to any feoffee in trust, executor or administrator, husband, guardian, committee or trustee, for or on behalf of any

infant, idiot, lunatic, feme covert or cestuique trust, or to any person whose Lands are limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, or to any corporation not being legally and equitably entitled to sell and dispose of such timber and wood, it shall be lawful for the Valuer out of such money to defray the proportion (if any) of the Inclosure expenses which shall be charged upon the Land, or any land held under the same title, on which such timber or wood actually grew, and also, with the approbation of the Commissioners, to defray the expense of any permanent improvement, such as building, subdividing, dividing, draining or planting, and the like, which shall in the judgment of the Valuer be proper to be made, and shall be made under his direction upon any Land to be under the powers of this Act allotted to such parties.

122. Investment of Surplus when 200*l.* or upwards.

And be it Enacted, That if the surplus of any such monies or the surplus of any monies to arise from the sale of part of an allotment for raising money for expenses, where the same shall not be paid to the proprietors under the directions hereinbefore contained, shall amount to or exceed the sum of Two hundred Pounds, the same shall, with all convenient speed, unless the Commissioners shall otherwise direct, under the provisions hereinafter contained, be paid into the Bank of England, in the name and with the privity of the Accountant-general of the Court of Chancery, to be placed to his account there, exparte the Commissioners, pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and the Endorsements thereon, as likewise the Endorsements on South Sea Bonds;" and pursuant to the general rules and orders of the said Court, and without fee or reward, according to an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out upon proper Securities any Monies not exceeding a Sum therein limited out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-General of the said Court;" and shall, when so paid in, there remain until the same shall, by order of the said Court made upon a petition, in a summary way, by the parties who would have been entitled to the rents and profits of the said Land, be applied to the following purposes or any of them; (that is to say)

The redemption or discharge of the Land Tax, or of any debt or other incumbrance affecting the same Land, or affecting other Lands

Lands standing settled therewith, to the same or the like uses or trusts;

The purchase of other Land to be conveyed or settled upon the like uses or trusts, or such of them as shall be then existing, undetermined or capable of taking effect.

123. Payment of Dividends in the mean-while.

And be it Enacted, That in the mean time, and until such application shall be made, the said money may, by order of the said Court to be made upon the like petition, be invested by the said Accountant General in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities, or of Government Securities; and the dividends or interest of such Annuities or Securities shall from time to time be paid by order of the said Court to the parties who would, for the time being, have been entitled to the rents and profits of the Lands so to be purchased, conveyed and settled.

124. Application of money under 200*l.*

And be it Enacted, That in case the surplus of any such monies as aforesaid shall be less than the sum of Two hundred Pounds, and shall exceed or amount to the sum of Twenty Pounds, the same shall, at the option of the parties who for the time being would have been entitled to the rents and profits of the said Land, or their Guardians or Committees in case of infancy, idiotcy, lunacy or other incapacity, with the approbation of the Commissioners, to be signified in writing under their seal, be paid into the Bank of England, in the name and with the privity of the the said Accountant-general of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option and with the like approbation to Two Trustees, to be nominated by the said parties who for the time being would have been entitled to the rents and profits of the said Land as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be signified in writing under the hands (or common seal, as the case may be) of the nominating parties, and under the seal of the Commissioners; and in any case in which such monies shall amount to or exceed the sum of Two hundred Pounds, the same if the Commissioners shall so think fit and direct, shall in like manner be paid to Trustees to be nominated and approved as aforesaid; and the money so paid to such Trustees, and the dividends and produce arising therefrom, shall be by them applied in like manner as is hereinbefore directed, with respect to money so to be paid into the Bank of England, but without obtaining or being required to obtain any order of the said Court touching the application thereof.

125. Under 20*l.*

And be it Enacted, That in case the surplus of any such monies as as aforesaid shall be less than Twenty Pounds, the same shall be paid

to the parties for the time being entitled to the rents and profits of the said Land for their own use and benefit; or in case of infancy, idiotcy, lunacy or other incapacity, then such money shall be paid to their Guardians, Committees or Trustees for the use and benefit of the parties respectively entitled thereto.

126. Sale of Land by Valuer for Expenses.

Provided always, and be it Enacted, That in case the Valuer acting in the matter of any Inclosure shall under the instructions of any meeting of the persons interested in the Lands to be inclosed, or of the Commissioners, think proper to raise all or any part of the expenses of the Inclosure by sale of part of the Land proposed to be inclosed, such Valuer shall set out such parts of the Land to be inclosed as he shall judge sufficient in value to defray the expenses aforesaid, and shall from time to time, as he shall find expedient, sell and dispose of the same by public auction or by private contract, with the approbation of the Commissioners; and the purchase-monies to arise by such sales shall be paid into the hands of the Commissioners, or as they shall direct, and shall be by them applied in discharging the said expenses.

127. Conveyances to be made by Commissioners.

And be it Enacted, That upon every sale to be made by the Valuer under the provisions of this Act, the Commissioners shall sign and deliver to each purchaser a receipt for his purchase-money, which shall be a sufficient discharge for the same; and upon receipt of the whole purchase-money for any of the Lands which shall be sold as aforesaid, the Commissioners shall convey such Lands and the fee-simple and inheritance thereof in possession, by conveyance under their hands and seal to such uses, trusts, and in such manner as such purchaser shall direct; and after such conveyance, the premises conveyed shall be freehold of inheritance, and shall be held to the uses and on the trusts expressed by such conveyance; and any such conveyance may be to the effect set forth in the Schedule to this Act.

128. Application of purchase-monies.

And be it Enacted, That all such purchase-monies as shall be from time to time raised or received by the Commissioners by such respective sales as aforesaid, shall, after payment of the charges and expenses attending such respective sales, be paid and applied by the Commissioners towards the expenses of the Inclosure; and the respective purchasers or other persons paying the same, shall not in any manner be liable to see to the application, or be answerable for any misapplication thereof.

129. Power to sell instead of allotting Land.

And be it Enacted, That when under such instructions as hereinbefore required in that behalf, the Valuer shall have been directed to sell the whole of any Land proposed to be inclosed under this Act, except the part thereof directed to be appropriated for public purposes, the Valuer shall and may sell and dispose of the whole of such Land, except

except as aforesaid; and such sale, and the conveyance thereof to the purchasers, shall be made in all respects in the same manner as hereinbefore directed with respect to the sale of part of the Land proposed to be inclosed for payment of expenses; and the Commissioners shall in like manner receive the purchase-money to arise from such sales, and their receipt shall in like manner be a sufficient discharge to the purchaser for the same; and the Commissioners shall invest such purchase-money, after payment thereout of the expenses of the sale and of the Inclosure in the name of any corporation as Trustees, or in the names of Three or more Trustees, to be named or approved by the Commissioners for that purpose, in the purchase of Three Pounds per Centum Consolidated Bank Annuities, or Three Pounds per Centum Reduced Bank Annuities, and shall in and by the final award apportion and declare the shares of and in such annuities to which the several persons interested in the Land from the sale whereof the same shall have arisen shall be entitled, and in respect of what Lands or Estates they shall be entitled in such manner as hereinbefore directed in case of allotments of Lands by the Valuer, or as near thereto as circumstances will admit; and shall also direct and declare that the dividends accruing from time to time in respect of such annuities, or the respective shares thereof, shall be applicable and applied by the Trustees to the payment of quit-rents, land-tax, or any other rent, tax, rate or annual charge, charged or to become charged upon any Lands remaining unsold, in respect of which the persons so declared entitled shall have been respectively declared to be entitled to such shares; and the residue, if any, of the dividends in respect of such shares shall be payable in the same manner as the rents of such Land would from time to time be payable; and in case any person so declared entitled shall not be entitled in respect of any Land remaining unsold, the dividends in respect of the share of such person in such annuities shall belong to the persons who, for the time being, would have been entitled to the Land or right in respect of which such share of annuities shall have been allotted, in case the same had not been sold or extinguished; and such shares shall be considered in equity as real estate, and be transmissible accordingly: Provided always, That where it shall be shown to the satisfaction of the Trustees or Trustee for the time being of such annuities, that any person shall be entitled to or shall have acquired an absolute interest in any share thereof, such share may be transferred to such person, or as he may direct; and in such final award shall be contained such powers for the appointment of new Trustees from time to time, by such persons, and in such manner, and such directions for the indemnity and security of the Trustees, and for defraying out of the trust fund the expenses of the execution of the trust, as the Commissioners shall think fit.

130. Notice may be given to reversioners.

And be it Enacted, That the Commissioners, before approving any draft award or report, or in any other stage of the proceedings on any Inclosure, or of the proceedings for subjecting any gated or stinted pasture to the provisions of this Act, concerning regulated pastures, if they shall see occasion, may require notice to be given in any such manner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any Lands, or to any other person to whom they may think notice ought to be given; and may by themselves, or by some Assistant Commissioner, hear and determine any objection which may be made by the person so next in remainder, reversion or expectancy.

131. Copies of Award to be made and deposited.

And be it Enacted, That Two copies of every confirmed final award shall be made and sealed with the seal of the said Commissioners, and One such copy shall be deposited with the Clerk of the Peace of the county in which the Lands inclosed shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapelwardens for the time being of the parish in which the Lands or the greater part thereof shall be situated, to be kept by them and their successors in office, with the public books, writings and papers of the parish, or shall be deposited with such other fit persons as the Commissioners shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of *Two Shillings and Sixpence* for such inspection, and after the rate of *Three-pence* for every Seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any confirmed final award, as shall be furnished by the Clerk of the Peace, shall be signed by the said Clerk of the Peace or his deputy, purporting the same to be a true copy; and every such copy and extract so signed shall be received in evidence without further proof thereof; and every recital or statement in such confirmed final award, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated.

132. Exchanges may be made of Land not subject to be inclosed.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of the persons interested, according to the definition hereinbefore contained, in Lands not subject to be inclosed under this Act, or in Lands subject to be inclosed under this Act as to which no proceedings for an Inclosure shall be pending, and who shall desire to effect an exchange of Lands in which they respectively shall be so interested, to direct inquiries whether such proposed exchange would be beneficial to the owners of such respective Lands; and

and in case the Commissioners shall be of opinion that such exchange would be beneficial, and that the terms of the proposed exchange are just and reasonable, they shall cause to be framed and confirmed, under the hands and seal of the Commissioners, an order of exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the Lands given and taken in exchange by each person so interested respectively, and a copy of such order, under the seal of the Commission, shall be delivered to each of the parties on whose application the exchange shall have been made; and such order of exchange shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the Land taken upon every such exchange shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the Lands given on such exchange would have stood limited or been subject to in case such order had not been made; and all expenses with reference to such order and exchange, or the inquiries in relation thereto, or to any proposed exchange, shall be borne by the persons on whose application such order shall have been made, or such inquiries undertaken.

133. Division of intermixed Lands.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of any number of persons who shall be separately interested in parcels of Land not subject to be inclosed under this Act, or of Land subject to be inclosed under this Act as to which no proceedings for an Inclosure shall be pending, so intermixed or divided into parcels of inconvenient form or quantity that the same cannot be cultivated or occupied to the best advantage, but forming together a tract which may be divided into convenient parcels, and who shall desire to have the whole of such tract so divided into convenient parcels to be allotted in lieu of the old parcels, to direct an inquiry whether such proposed division and allotment would be beneficial to the owners of such Lands; and in case the Commissioners shall be of opinion that the proposed division and allotment would be beneficial, they shall cause to be framed an order for the division or allotment thereof accordingly, with a map or plan thereunto annexed, in which shall be specified as well the parcels which the several persons, on whose application such order shall have been made, were respectively interested in before such division and allotment, as the several parcels allotted to them respectively by such order, and such order shall be confirmed under the hands and seal of the Commissioners; and a copy of such order, sealed with the seal of the Commissioners, shall be delivered to each of the parties on whose application the division and allotment shall have been made, and such order of division shall be good in the law to all intents and purposes whatsoever, and shall in no wise be liable to be impeached by reason of

any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the parcels of Land taken by the persons interested under such division shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the several Lands which the persons taking the same shall have relinquished or lost on such division would have stood limited to, for or upon, or been subject to in case such order had not been made; and all expenses with reference to any such order, division and allotment, or the inquiries in relation thereto, or to any proposed division or allotment, shall be borne by the persons on whose application such order shall have been made or such inquiries undertaken.

134. Expenses of Exchanges and Divisions.

And be it Enacted, That if any difference shall arise touching the said expenses in relation to any exchange, division, allotment, orders or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the Commissioners to certify under their hands and seal the amount to be paid by such person; and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any *Two* Justices of the Peace for the county or other jurisdiction wherein the Land shall be situate, such Justices upon the non-payment thereof are hereby required by warrant under their hands and seals to cause the same to be levied by distress.

135. Commissioners may remedy defects and omissions of awards under Local Acts of Inclosure, or under 6 & 7 Will. 4, c. 115.

Andbe it Enacted, That where any award already made and executed, or hereafter to be made and executed in pursuance of any local Act of Inclosure, or in pursuance of an Act passed in the seventh year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales," shall not have duly distinguished the several tenures of all the Lands thereby awarded or allotted, or of any other Lands of which the tenure ought to have been distinguished in or by such award, or the different estates or titles for or under which any Lands therein mentioned should be held, or shall not have duly distinguished the Lands which, after such award, should remain subject to all or any tithes, and the Lands which should be discharged from all or any tithes, or where by any such award an aggregate allotment shall have been set out and awarded in any case in which several and distinct allotments ought to have been set out and awarded, in every such case, and in every other case in which it shall appear to the Commissioners that injustice or inconvenience shall have arisen from inaccuracy, confusion or omission in any such award, it shall be lawful for the Commissioners, upon the application in writing of any person interested in the Lands to which such award may relate, or of any person prejudiced by the inaccuracy, confusion or omission in such award, to make such inquiries and take such evidence by themselves

selves or by an Assistant Commissioner, as they shall think fit, and by an order under their hands and seal, to amend such award, and to distinguish the several tenures of the Lands thereby allotted and awarded, and the different estates or titles for or under which the same should be held, and to distinguish the Lands which should be discharged from all or any tithes, and the Lands which should remain subject to all or any tithes, and to subdivide aggregate allotments into separate allotments, and to distinguish the tenures or titles thereof, or the Lands or rights in respect of which they were respectively made, and generally to make or give such declarations or directions as may appear necessary to supply any omission and rectify any inaccuracy or confusion in such award; and such order of the Commissioners shall have the same force and effect as if the allotments, directions and declarations therein contained had been duly made and contained in the original award in addition, or as the case may require, in substitution for the parts thereof to which such amendments may relate, and all expenses with reference to such order as last aforesaid, and of all inquiries in relation thereto, or to any proposed amendment of any such award, shall be borne by the persons on whose application such order shall be made or such inquiries undertaken.

136. Commissioners may revive powers under local Inclosure Acts lost by lapse of time or otherwise.

And be it Enacted, That where under any Local Act of Inclosure, the powers and authorities originally vested in the Commissioner or Commissioners acting under any such Local Act, or any such power or authority shall not have been fully executed, according to the intent of such Local Act, and shall have been lost or become incapable of being executed by reason of the neglect or omission to execute the same, or to take some proceeding necessary to the due execution thereof within the time limited in that behalf by such Local Act, or from any other cause whatsoever, it shall be lawful for the Inclosure Commissioners for England and Wales, by any order under their hands and seal, to authorize the Commissioner or Commissioners appointed by or acting under the authority of such Local Act, to execute and to carry into effect the powers and authorities originally vested in such last-mentioned Commissioner or Commissioners, or in any previous Commissioner or Commissioners under such Local Act, in the same manner as if such powers and authorities had not been lost or become incapable of being executed, or as near thereto as lapse of time and other circumstances may permit, and subject to such conditions and restrictions as the justice of the case may appear to require, and in and by such order to direct any act or proceeding to be done or taken in substitution for any act or proceeding which shall have been required or directed by such Local Act, and which shall have become incapable of being done or taken, by lapse of time or other circumstances; and all proceedings, adjudications, orders, directions and acts taken, made and done by the Commissioner or Commissioners under any Local Act in pursuance of any such order as aforesaid of the Inclosure

Commissioners for England and Wales, shall have the same force and effect as if the same had been duly authorized by such Local Act; and the expenses of such order, and of the inquiries in relation thereto, shall be paid by the Commissioner or Commissioners acting under such Local Act, and shall be deemed expenses under the Inclosure by such Local Act authorized.

137. Commissioners may appoint person to complete proceedings in an imperfect Inclosure.

And be it Enacted, That where the powers and authorities of any Local Act of Inclosure shall not have been fully executed and performed, whether the same shall or shall not have been lost or have become incapable of being executed from lapse of time or otherwise, and there shall be no Commissioner acting under such Local Inclorure Act, or in case from any other cause any of the persons interested in the Land to which such Local Act shall relate, shall be desirous that the powers and authorities of such Act should be executed, and the proceedings thereunder completed under the direction of the Inclosure Commissioners for England and Wales, it shall be lawful for the said Commissloners, by order under their hands and seal, upon the application in writing of the major part in value of the persons interested in the Lands subject to be inclosed under such Local Act, to appoint any person to execute the powers or authorities of such Local Act, in the place of the Commissioner or Commissioners by such Act appointed or authorized to be appointed, and to complete the proceedings under the same; and it shall be lawful for the said Inclosure Commissioners for England and Wales, by such order as aforesaid, or by any supplemental or other order, to authorize the person so appointed to execute and to carry into effect any powers or authorities originally vested in any Commissioner or Commissioners under such Local Act, and which may have been lost or become incapable of being executed, and to give such other directions in relation thereto as under the provision hereinbefore contained might have been given to the Commissioner or Commissioners appointed by or acting under a Local Act; and the person so appointed by the Commissioners shall and may complete the proceedings under such Local Act, and make an award therein, and shall have such and the like powers and authorities in all respects as the Commissioner or Commissioners originally appointed by or acting under such Local Act would have had, if he or they had continued to act; and it shall be lawful for the Inclosure Commissioners for England and Wales, by order under their hands and seal, to remove any person so appointed, and upon such removal, or in case any person so appointed shall die or desire to be discharged from his office, before the proceedings in such Inclosure shall be completed, from time to time to appoint any other person in his stead, with all such powers and authorities as aforesaid; and the expenses of such orders of the Commissioners, and of all proceedings in relation thereto, shall be expenses in the Inclosure, and raised in the same manner as other expenses may by such Local Act be authorized to be raised.

And

138. Commissioners may confirm awards or agreements made under supposed authority of 6 & 7 Will. 4, c. 115.

And be it Enacted, That where, by any award or agreement expressed to be made under the authority of the said Act of the seventh year of King WILLIAM the Fourth, intituled, "An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales," any moors, commons or waste Lands or other Lands not subject to be inclosed under the provisions of such last-mentioned Act shall have been inclosed or apportioned and allotted, and the Lands so inclosed or apportioned and allotted shall be within the definition of Lands subject to be inclosed under this Act, it shall be lawful for the Commissioners, upon the application of any person interested in any Land so inclosed or apportioned and allotted, to make such inquiries in relation to such award or agreement as the Commissioners shall think fit, and if it shall appear to the Commissioners that the rights and interests of all parties interested in the Lands expressed to be inclosed or apportioned and allotted by such award or agreement, shall have been duly provided for and compensated thereby, or might be duly provided for and compensated thereby, if such award or agreement were confirmed, or amended and confirmed as hereinafter mentioned, it shall be lawful for the Commissioners, by any order under their hands and seal, to confirm such award or agreement, or to amend the same, as the justice of the case and the rights and interests of the parties may appear to the Commissioners to require, and to confirm the same, with the amendments specified in such order, as the Commissioners shall think fit, and every award and agreement so confirmed shall, with the amendments, if any, which shall have been made by such order, have the same force and effect as a final award under the authority of this Act; and all expenses with reference to such order as last aforesaid, and of all inquiries in relation thereto, or to any proposed confirmation of any such award or agreement, shall be borne by the persons on whose application such order shall be made or such inquiries undertaken.

139. Penalties and Forfeitures, how recoverable.

And be it Enacted, That all penalties and forfeitures imposed by this Act, or which shall be imposed by the Commissioners or Assistant Commissioner acting in the matter of any Inclosure or other proceeding under or by virtue of the authority of this Act, shall be levied and recovered before any One Justice of the Peace for the county in which the Land subject to be inclosed, or to which such other proceeding shall relate, shall be situate, and not interested in the matter in question, for which purpose it shall be lawful for any such Justice of the Peace upon complaint made to him to summon the party accused, and the witnesses on both sides; and upon the appearance or contempt of the party accused, to examine such witnesses upon oath (which oath any such Justice is hereby empowered to administer), and upon such evidence to give judgment accordingly, and to condemn the party accused (proof of the accusation being made by One or more witness or witnesses as aforesaid)

in such penalties and forfeitures as the offenders shall have incurred, and to levy such penalties and forfeitures by distress, together with reasonable costs; all which penalties and forfeitures, the application whereof is not particularly directed by this Act, shall and so soon as the same shall be levied, be paid and applied to and for such uses, intents or purposes as the Commissioners in and by any writing under their hands and seal shall order, direct or appoint.

140. Distress, how to be made.

And be it Enacted, That when in this Act any sum of money, whether in the nature of penalty or otherwise, shall be directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the surplus monies arising from such sale, after satisfying such sum of money, and the costs and expenses attending the distress and sale, shall, on demand, be rendered to the party whose goods and chattels shall have been distrained.

141. Distress not unlawful for informality.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser, ab initio, on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

142. Notices, how given.

And be it Enacted, That all notices by this Act directed to be given by advertisement shall be given by an advertisement to be inserted in some newspaper or newspapers printed or usually circulated in the county in which the Land subject to be inclosed, or other Land to which such notice shall relate shall be situate, and all notices directed to be given on the church-door shall be by writing, under the hand of the party giving such notice, to be affixed on the principal outer door of the church of the parish, or if there shall be no church, then in some conspicuous place in the parish in which the Land subject to be inclosed or other land to which such notice shall relate or some part thereof shall be situate, on Sunday before divine service; and all notices necessary to be given by the Commissioners or any Assistant Commissioner acting in the matter of any Inclosure (the mode of giving which is not hereby particularly directed) shall be by either or both of the methods aforesaid as the Commissioners or Assistant Commissioner shall think fit; and all notices so given shall be deemed sufficient notices to all persons concerning all matters and things to which such respective notices shall relate.

143. Advertisements and Awards free of duty.

And be it Enacted, That no advertisement inserted by direction of the Commissioners or any Assistant Commissioner acting in the matter

matter of any Inclosure, in the London Gazette or in any newspaper for the purpose of carrying into effect any provision of this Act, and no agreement, award, bond or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty.

144. Persons giving false evidence to be subject to the penalties of Perjury.

And be it Enacted, That if any person under the provisions of this Act shall wilfully give false evidence, he shall be deemed guilty of Perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act, he shall suffer the penalties of Perjury; and if any person shall wilfully refuse to attend, in obedience to any lawful summons of the Commissioners or an Assistant Commissioner, or to give evidence, or shall wilfully alter, withhold, destroy or refuse to produce any book, deed, court-roll or writing, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the Commissioners or Assistant Commissioner, he shall be deemed guilty of a *Misdemeanor*.

145. Limitation of actions.

And be it Enacted, That no action or suit shall be commenced against any Commissioner, Assistant Commissioner, Justice of the Peace, Valuer, or other person, for any thing done under the authority of this Act, until *Twenty-one* Days' notice thereof shall have been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after *Three* calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action shall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before *Twenty-one* Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the Jury shall find a verdict for the defendant therein; or the Court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall have costs, charges and expenses as between attorney and client.

146. Proceedings not to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the Commissioners or any Assistant Com-

missioner under the authority of this Act, except as hereinbefore provided, or any proceeding to be had, touching any offender against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process, into any of Her Majesty's Courts of Record at Westminster or elsewhere.

147. Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "person," shall mean and include the Queen's Majesty, and any body corporate, aggregate or sole, as well as an individual; and any word importing the singular number only, shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; and any word importing the masculine gender only, shall mean and include a female as well as a male; and the word "Land," shall mean and include all messuages, lands and corporeal tenements and hereditaments; and the word "parish" shall include any township or vill, or extra-parochial district or place; and the word "church" shall mean and include any chapel where there is no church; and the word "school-house" shall mean any parochial or charitable school-house; and the words "the Commissioners" shall mean the Inclosure Commissioners for England and Wales; and the words "Assistant Commissioner" shall mean the Assistant Commissioner appointed by the Inclosure Commissioners.

148. Act to extend only to England and Wales.

And be it Enacted, That this Act shall extend only to England and Wales.

149. May be amended in present session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session.

THE

THE SCHEDULE

To which this ACT refers.

FORM of Conveyance by Commissioners [in the matter of the Inclosure.]

We, the Inclosure Commissioners for England and Wales, by virtue of an Act of Parliament passed in the year of the reign of Queen Victoria, intituled [here insert the title of this Act], and in consideration of the sum of paid into our hands by being the purchase-money of the hereditaments hereinafter described, do by these presents convey unto his heirs and assigns, all that [here describe the premises], with the appurtenances; to hold the same unto the said his heirs and assigns [here state the uses, trusts or purposes of the conveyance, as the case may require.] In witness whereof we have hereunto affixed our seal this day of

---

FORM of Summons.

To of in the County of Field Reeve of

To wit. } I, Esquire, one of Her Majesty's Justices of the Peace in and for the said County of do hereby summon you personally to be and appear before such Two of Her Majesty's Justices of the Peace as shall be present at in the said County, on the day of next, at the hour of in the noon of the same day, to answer the complaint of A. B., that [he is refused reasonable compensation for diminution of his right of pasture in the regulated pasture in], or [that the said A. B. is charged with an excessive payment for increase of his right of pasture in the regulated pasture of], otherwise the complaint will be proceeded with as if you had appeared. Given under my hand and seal this day of in the year

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FORM of ORDER.

To wit. } The Order of and Esquires, Two of Her Majesty's Justices of the Peace in and for the said County, made at in the said County of the day of in the year

WHEREAS complaint hath been made to us by A. B. for that he [state the complaint as in the summons]. We do declare, that [the yearly sum of is a reasonable compensation for the diminution of the right of pasture of the said A. B.] or [the yearly sum of is a reasonable payment for increase of the right of pasture of the said A. B.] And do order that such yearly sum be paid according to the directions of the statute in that behalf. Given under our hands and seals this day of in the year

DRAINAGE OF LANDS BILL.

List of Clauses.

Sect.

1. Inclosure Commissioners and their Assistants to execute this Act.
2. Powers of the Inclosure Act to extend to this Act.
3. Commissioners to report.
4. Persons desirous of draining Land may apply to the Commissioners.
5. Publication of a Notice that Memorial has been deposited. Objections to be sent to the Commissioners in writing.
6. Commissioners may require security for costs of inquiry.
7. Assistant Commissioner to examine and hear objections.
8. Assistant Commissioner to report. Commissioners to consider proposed Drainage. Commissioners may by order under their seal authorize the execution of the Works allowed by them.
9. Description of Works which may be executed. Entry not to be made without consent until compensation is paid.
10. Power to purchase Lands for Sites of Engines, &c.
11. The Lands Clauses Consolidation Act, 1845, incorporated with this Act.
12. Copies of Orders authorizing Works to be made and deposited.
13. Parties whose Lands are injured by neglect of others to maintain or scour Drains, &c., may, after notice to the neglecting party, do the work necessary to remedy the evil. Expenses to be recoverable from neglecting party.
14. No entry to be made on the Lands of neglecting Proprietor without warrant of Two Justices.
15. Expenses and costs to be levied by distress.
16. Distress not unlawful for want of form.
17. Saving of Local Drainage Acts.
18. Saving of navigable Rivers.
19. Definition of terms.
20. Act may be amended, &c.

A

B I L L

To facilitate the Drainage of Lands in England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient that provision should be made for promoting the Drainage of Lands in England; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Inclosure Commissioners for England and Wales shall be the Commissioners to carry this Act into execution, and that the Assistant Commissioners, Secretary, Clerks, Messengers and officers who may be from time to time appointed under the provisions of an Act of this present Session of Parliament, intituled, "An Act to facilitate the Inclosure and Improvement of Commons and Lands held in common, the Exchange of Lands and the Division of intermixed Lands, to provide Remedies for defective or incomplete Executions, and for the non-execution of the Powers of General and Local Inclosure Acts, and to provide for the Revival of such Powers in certain Cases," shall assist in carrying this Act into execution, in like manner as if the matters and proceedings by this Act directed or authorized were matters and proceedings directed or authorized by the said Act of this present Session.

1. Inclosure Commissioners and their Assistants to execute this Act.

2. Powers of the Inclosure Act to extend to this Act.

And be it Enacted, That all the powers by the said Act of this present Session given to the Assistant Commissioners, to require the attendance of witnesses, to administer or receive declarations and examine witnesses, and to cause to be produced before them writings and documents, and the power given to the said Commissioners to delegate to the Assistant Commissioners or to any one or more of them the

powers given to such Commissioners, except the power to do any act required to be done under the seal of the Commissioners, shall be applicable to and may be exercised for the purposes of this Act, as fully and effectually as if the matters and proceedings hereby authorized or directed to be done and taken by the Commissioners or by any Assistant Commissioner were matters and proceedings authorized or directed to be done and taken under the said Act of this present Session of Parliament.

3. Commissioners' Reports.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings under this Act as such Principal Secretary of State shall require, and shall once in every year send to one of the Principal Secretaries of State a General Report of such proceedings, and every year such General Report shall be laid before both Houses of Parliament within *Six* Weeks after the receipt of the same by such Principal Secretary of State if Parliament be sitting, or if Parliament be not sitting, then in *Six* Weeks after the next meeting thereof.

4. Persons anxious of draining land may apply to the Commissioners.

And be it Enacted, That where any land shall be capable of being drained or improved by drainage, by means of works to be executed on the same and other lands, for obtaining or improving the outfall or otherwise, it shall be lawful for any persons interested in the land so capable of being drained or improved, and who shall be desirous for that purpose to execute all or any of the works hereinafter mentioned, and shall be unable to execute such works by reason of the objection, absence or disability of any person whose land would be entered upon, cut through or interfered with by or for the purpose of such works, to apply by memorial to the Commissioners, showing the means by which such land may be drained or such improvement may be effected, and praying for authority to effect such drainage or improvement under the provisions of this Act; and to such memorial shall be annexed a map or plan, showing the land to which such application shall relate, and the land and property required to be entered upon, cut through or interfered with for the purposes of such drainage or improvement, or likely to be affected by the proposed works, and also the rivers, watercourses, ditches and drains intended to be cleared, scoured, deepened or embanked, and the proposed variations, divisions, abridgments or enlargements of the same, and the new cuts, embankments, drains, watercourses and other works proposed to be made, and the engines and machinery proposed to be erected for the purposes of such drainage or improvement, and also Schedules showing the reputed proprietors, lessees and occupiers of the lands proposed to be drained and improved, and the lands and property required to be entered upon, cut through or interfered with respectively for the purposes of such drainage or improvement, and also an estimate of the expense of the proposed

posed works, engines and machinery, including the probable amount of money payable as purchase and compensation money in respect of the land and property required to be entered upon, cut through or interfered with, and also a statement of the actual condition of the lands proposed to be drained or improved, and of the probable increased value of the land consequent upon the proposed works; or in case it shall appear to the Commissioners that a correct judgment can be formed on the proposed means of drainage or improvement without a map or plan and estimates including the whole of the land to which such memorial shall relate, then a map or plan showing only the proposed works, or such other map or plan as the Commissioners shall think necessary, and such memorial, or some schedule thereto, shall also show the persons by whom the works are proposed to be executed; and the persons by whom such application shall be made, shall, upon the request of the Commissioners, furnish such further details in respect of the said map or plan, schedules, estimates and statements, or any of them, as the Commissioners shall think fit for their guidance in the matter of the memorial; and the persons by whom such application shall be made shall cause copies of the said memorial, map or plan, schedules, estimates and statements, or of such of them as shall have been furnished to the Commissioners under the provisions hereinbefore contained, to be deposited in such convenient place or places as the Commissioners shall approve, within or near the parish or one of the parishes in which the land to which such application shall relate shall be situate, there to remain open for public inspection; and the deposit of such copies shall be certified to the Commissioners in such manner as they shall require; and all persons shall be at liberty to inspect and make copies of or extracts from the said memorial, map or plan, schedules, estimates and statement, or any of them, and copies thereof or extracts therefrom shall be made by such person as the Commissioners shall direct for any person who shall require the same, on payment of the costs of making such copies or extracts.

5. Declaration of notice that memorial has been deposited. Objections to be sent to the Commissioners in writing.

And be it Enacted, That the Commissioners shall require the persons making such application as aforesaid to cause a notice of such memorial having been presented, and of the parishes in which works are by such memorial proposed to be executed, and of the places in which copies of the said memorial, map or plan, schedules, estimates and statements have been deposited as aforesaid, to be given by advertisement, and to cause a like notice to be served on all persons not parties to the said application whose lands are proposed to be entered upon, cut through or interfered with; and such service shall be either personally on the lessee or occupier of such land, or by leaving such notice at the usual or last known place of abode of such lessee or

 occupier;

occupier; and also if the proprietor or reputed proprietor of such land shall be known to the persons making such application, or to the Commissioners, the like service of such notice shall be made on him, either personally or by leaving the same at his usual or last known place of abode; and by such notice all parties interested or in any way affected by the proposed works, shall be required, on or before a day to be therein named, not sooner than *Six* Weeks from such publication and service as aforesaid of such notice, to transmit in writing to the Commissioners all objections which such parties shall think fit to make with respect to any thing by the said memorial proposed to be done under the provisions of this Act.

6. Commissioners may require security for costs of inquiries.

And be it Enacted, That the Commissioners may in every case, before they shall proceed to act or inquire on or in relation to any such memorial as aforesaid, require such provision or security to be made or given as they shall think fit, for the payment by the parties making the application of all costs incident to or to be occasioned by the inquiries and proceedings in relation thereto.

7. Assistant Commissioner to examine and hear Objections.

And be it Enacted, That in every case in which there shall have been transmitted to the Commissioners objections to any thing by the said memorial proposed to be done, the Commissioners shall appoint an Assistant Commissioner to inspect the lands proposed to be drained or improved, and the lands intended to be entered upon, cut through, interfered with, or affected by the works in such memorial mentioned; and the Commissioners shall, if they shall think necessary, call one or more public meetings, of which, *Twenty-one* Days' notice at the least shall be given by advertisement, of all persons likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of *Six* Weeks, and at such convenient place or places within the parish or one of the parishes wherein such land so to be drained or improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice; and at the time and place named in such notice as aforesaid, the Assistant Commissioner, so appointed as aforesaid, shall attend and shall have power to adjourn any meeting from time to time, or hold any new meeting as he may find necessary, and shall inquire into the correctness of the Schedules containing the names of such reputed proprietors, lessees and occupiers as aforesaid, and shall inquire whether the notices by the Act required shall have been duly given and served, and shall hear and inquire into all such objections as shall have been or shall be then and there made by any person or persons interested in any land likely to be affected by any thing by such memorial proposed to be done; and the said Assistant Commissioner shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid.

8.
Assistant Commissioner to report.
Commissioners to consider proposed Drainage.

And be it Enacted, That the Assistant Commissioner appointed as aforesaid shall report his opinion on the proposed drainage or improvement, and on the objections thereto, with the evidence taken by him at the meeting or meetings (if any shall be held as aforesaid), or otherwise, to the Commissioners, and the Commissioners shall consider the proposed drainage or improvement, and such objections as may have been made thereto, and may make further inquiries, and take further evidence in relation thereto, if they shall think fit; and in case they shall be of opinion that such drainage or improvement may be effected without material detriment to the lands proposed to be cut through or affected, or that the drainage to the lands so proposed to be cut through or affected, may be adequately and effectually compensated under the provisions of this Act, they may allow such works, according to the proposal in such memorial contained, or with such alterations therein as they may think fit; and it shall be lawful for the Commissioners, by an order under their seal, to authorize the persons by whom such application shall have been made or any of them, or any other person or persons to be named or described by the Commissioners in such order, to execute the proposed works, as the same shall have been allowed as aforesaid, within a time to be limited in such order; and such order, or some plan thereunto annexed, shall specify or describe the works thereby authorized to be executed; and the person or persons authorized in this behalf by such order, or the person or persons who shall be authorized by any supplementary order of the Commissioners, shall have full power to execute the works in such order specified and authorized according to the terms and intent of such order, and to maintain such works for ever thereafter, subject, nevertheless, to the provisions hereinafter contained, and making compensation, to be ascertained in manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of the powers granted by s uch ordr or any of them.

Commissioners may, by order under their seal, authorize the execution of the Works allowed by them.

9.
Description of works which may be executed.

And be it Enacted, That it shall be lawful for the person or persons authorized as aforesaid to enter into and upon any land in the order of the Commissioners, or the plan thereunto annexed, described or shown, and in conformity with the terms of such order, but not otherwise, to widen, straighten, deepen, divert, scour or cleanse any river, stream, ditch or drain, brook, pool or watercourse, and to make, open and cut any new watercourse, side-cut, ditch or drain, and to alter or remove any bank, sluice, floodgate, clough, hatch, weir, dam or other obstruction, and to make or erect any bank, sluice, floodgate, hatch, ditch, drain, tunnel or other works necessary or convenient for drainage, and to dam, bar and stop up with any weir or dam any river or watercourse, and to erect and maintain on such land steam and other engines and machinery: Provided always, That no entry shall be

Entry not to be made

without consent until compensation is paid.

be made on any land for the purposes aforesaid, except with the consent of the proprietors thereof, until the amount of compensation for the damage to be occasioned by such entry, and by the execution and maintenance of the works authorized as aforesaid, shall have been agreed upon or ascertained, as the case may be, and paid, under the provisions hereinafter contained or agreed to.

10. Power to purchase lands for sites of Engine-houses, &c.

And be it Enacted, That it shall be lawful for the Commissioners by any such order as aforesaid to authorize any person or persons therein mentioned to purchase and take as the site of any engine-house, or for anyother purpose necessary for the works thereby authorized, any land in such order to be described: Provided always, That not more than acres be purchased or taken under this clause otherwise than by agreement, and all the provisions of "The Lands' Clauses Consolidation Act, 1845," with respect to the purchase of land otherwise than by agreement; shall apply to the purchase of any land not exceeding acres, which shall be specially described in such order, and which shall be thereby authorized to be taken otherwise than by agreement, and the provisions of the last-mentioned Act with respect to the purchase of land by agreement shall apply to the purchase of any land by such order authorized to be purchased except as aforesaid; and all lands to be purchased or taken under this clause shall be conveyed to or held by such persons and upon such trusts as the Commissioners shall by such order direct.

11. The Lands Clauses Consolidation Act, 1845, incorporated with this Act.

And be it Enacted, That the compensation to be paid for the damage or injury to any lands which may be entered upon, cut through or interfered with under any such order of the Commissioners as aforesaid may be agreed upon with the persons and in the manner provided by "The Lands Clauses Consolidation Act, 1845," with respect to the purchase of land othr w ise than by agreement; and the persons who in such order of the Commissioners shall be authorized to execute the works in such order mentioned, shall, for the purposes of the last-mentioned Act and of this Act, be deemed the promoters of the Undertaking; and all other the provisions of "The Lands Clauses, Consolidation Act, 1845," shall be incorporated with this Act, and shall apply thereto and to the works and purchases to be authorized by the Commissioners, in such and the same manner as if the works and purchases which shall be authorized by the Commissioners had been set forth and authorized to be executed and made by this Act.

12. Copies of Orders authorizing Works to be made and deposited.

And be it Enacted, That Two copies of every Order of the Commissioners by which they shall authorize the execution of Works under the provisions of this Act, shall be made and sealed with the seal of the Commissioners, and one such copy shall be deposited with the Clerk

Clerk of the Peace of the county in which the land authorized to be drained, or the greater part thereof, shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapel Wardens for the time being of the parish in which the said land or the greater part thereof shall be situate, to be kept by them and their successors in office with the public books, writings and papers of the parish, or shall be deposited with such other fit persons as the Commissioners shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy on giving reasonable notice to the person having custody of the same, and on payment of Two shillings and Sixpence for such inspection, and after the rate of Three-pence for every Seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any such order as aforesaid as shall be furnished by the Clerk of the Peace, shall be signed by the Clerk of the Peace or his Deputy purporting the same to be a true copy or extract; and every such copy and extract so signed shall be received in evidence without further proof thereof.

13. Parties whose Lands are injured by neglect of others to maintain or secure drains, &c. may, after notice to the neglecting party, do the work necessary to remedy the evil.

AND whereas, by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks and cleanse and scour the channels of existing drains, streams or watercourses lying in or forming the boundaries of such lands, and being or leading to the outfall from such lands and from other lands, much injury is occasioned and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where by reason of the neglect of any such proprietor or occupier to maintain or join in maintaining the banks, or to cleanse and scour, or join in cleansing and scouring the channels of existing drains, streams or watercourses lying in or bounding the lands of such proprietor or occupier, injury shall be caused to any other land, it shall be lawful for the proprietor or occupier of any land so injured to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing delivered to him or left at his usual place of abode, effectually to maintain such banks or cleanse or scour such channels, or to join in effectually maintaining such banks or cleansing and scouring such channels of such drains, streams and watercourses; and in case he shall neglect so to do, it shall be lawful for the proprietor or occupier of the land to which such injury shall be caused, immediately after the expiration of Fourteen Days from the service of such notice as aforesaid, to execute or cause to be executed, or to join with any other person in executing or causing to be executed, all necessary works for maintaining or repairing such banks, or cleansing or scouring such channels as aforesaid; and

Expenses to be recoverable from neglecting party.

in case the expenses paid or incurred in executing or causing to be executed such works as aforesaid, or the just proportion thereof which should have been paid or borne by the proprietor or occupier so neglecting as aforesaid, shall not be paid to the person by whom the same shall have been paid or incurred by the proprietor or occupier so neglecting as aforesaid within Seven Days after demand, it shall be lawful for any Justice, upon the application of the person by whom such expenses shall have been paid or incurred, to summon the proprietor or occupier so neglecting as aforesaid to appear before Two Justices, at a time and place to be named in puch summons, and upon the appearance of the person so summoned, or in his absence upon due proof of the service of such summons, it shall be lawful for such Two Justices, upon proof of such neglect as aforesaid, and of the injury occasioned thereby, and of the expenses paid or incurred as aforesaid, to make an order for the payment by the proprietor or occupier so neglecting of the expenses aforesaid, or of such just proportion of the same as such proprietor or occupier so neglecting ought, in the opinion of the said Justices, to contribute and pay; and it shall be lawful for the said Justices, upon any such application as aforesaid, to award such costs to be paid by such party and in such manner as to such Justices shall seem reasonable, and the amount of such expenses and costs respectively may be recovered by distress.

14. No entry to be made on the lands of neglecting proprietor without warrant of Two Justices.

Provided always, and be it Enacted, That unless such drain, stream or watercourse as aforesaid shall be a boundary of or immediately adjoining to the land of the proprietor or occupier whose land shall have been injured by such neglect as aforesaid, it shall not be lawful for the proprietor or occupier whose land shall have been so injured to enter upon the land of any other person in the execution of the works aforesaid, without a warrant or authority in writing so to do from Two or more Justices, which warrant or authority such Justices shall grant upon inquiry had before them, after a summons served upon the proprietor or occupier of the land so to be entered upon, if it shall appear to such Justices that the neglect of the proprietor or occupier of the land so to be entered upon has occasioned injury to the lands of the proprietor or occupier applying for such warrant or authority.

15. Expenses and costs to be levied by distress.

And be it Enacted, That if, upon any adjudication of the Justices, the amount of the expenses ordered to be paid, and of such costs as aforesaid, be not paid, the amount of such expenses and costs shall be levied by distress; and such Justices or either of them, or any other Justice, shall issue their or his warrant of distress accordingly; and every sum of money to be levied by distress as aforesaid shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the surplus arising from the sale of such goods

and

and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

16. Distress not unlawful for want of form.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, adjudication, warrant of distress, or other proceeding relating thereto; nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him; but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

17. Saving of local Drainage Acts.

Provided always, and be it Enacted, That, except as hereinbefore expressly directed, nothing in this Act contained shall affect the rights, duties, privileges, powers or authorities vested in or to be discharged by any Commissioners of Sewers appointed by any Commission under the Great Seal, or the Commissioners appointed under any local or private Act of Parliament for sewers or drainage, or shall extend to or affect any charter, law, usage or custom concerning Romney Marsh, or concerning the Great Level of the Fens, called the Bedford Level, or any part thereof.

18. Saving of navigable rivers and canals.

Provided always, and be it Enacted, That nothing herein contained shall authorize or enable any person acting or pretending to act under this Act to make or construct any work injurious to the navigation of any navigable river or canal.

19. Definition of Terms.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act is repugnant to such construction), "the Commissioners" shall mean the said Inclosure Commissioners for England and Wales; and the word "Plan" shall extend to drawings and sections; and the word "River" shall extend to all rivers, rivulets, lakes, canals, streams and estuaries; and the word "Person" and the word "Proprietor" shall extend to The Queen's Majesty, and to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons; the word "Justice" shall mean Justice of the Peace acting for the county, riding, city, division, liberty or other place, where the matter requiring the cognizance of any such Justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorized or required to be done by Two Justices, the expression "Two Justices" shall be understood to mean Two or more Justices assembled and acting together in petty sessions; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word

importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

20. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

Drainage of Lands.

A

B I L L

To facilitate the Drainage of Lands in England and Wales.

(*Prepared and brought in by The Earl of Lincoln and Lord Granville Somerset.*

Ordered, by The House of Commons, *to be Printed,*
5 May 1845.

274.

Under 2 oz.

B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Drainage of Lands in England and Wales.

Preamble.

WHEREAS it is expedient that provision should be made for promoting the Drainage of Lands in England; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Inclosure Commissioners for England and Wales shall be the Commissioners to carry this Act into execution, and that the Assistant Commissioners, Secretary, Clerks, Messengers and officers who may be from time to time appointed under the provisions of an Act of this present Session of Parliament, intituled, "An Act to facilitate the Inclosure and Improvement of Commons and Lands held in common, the Exchange of Lands and the Division of intermixed Lands, to provide Remedies for defective or incomplete Executions, and for the non-execution of the Powers of General and Local Inclosure Acts, and to provide for the Revival of such Powers in certain Cases," shall assist in carrying this Act into execution, in like manner as if the matters and proceedings by this Act directed or authorized were matters and proceedings directed or authorized by the said Act of this present Session.

1. Inclosure Commissioners and their Assistants to execute this Act.

2. Powers of the Inclosure Act to extend to this Act.

And be it Enacted, That all the powers by the said Act of this present Session given to the Assistant Commissioners, to require the attendance of witnesses, to administer or receive declarations and examine witnesses, and to cause to be produced before them writings and documents, and the power given to the said Commissioners to delegate to the Assistant Commissioners or to any one or more of them the

powers given to such Commissioners, except the power to do any act required to be done under the seal of the Commissioners, shall be applicable to and may be exercised for the purposes of this Act, as fully and effectually as if the matters and proceedings hereby authorized or directed to be done and taken by the Commissioners or by any Assistant Commissioner were matters and proceedings authorized or directed to be done and taken under the said Act of this present Session of Parliament.

3. Commissioners' Reports.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings under this Act as such Principal Secretary of State shall require, and shall once in every year send to one of the Principal Secretaries of State a General Report of such proceedings, and every year such General Report shall be laid before both Houses of Parliament within Six Weeks after the receipt of the same by such Principal Secretary of State if Parliament be sitting, or if Parliament be not sitting, then in Six Weeks after the next meeting thereof.

4. Persons anxious of draining land may apply to the Commissioners.

And be it Enacted, That where any land shall be capable of being drained or improved by drainage, by means of works to be executed on the same and other lands, for obtaining or improving the outfall or otherwise, it shall be lawful for any persons interested in the land so capable of being drained or improved, and who shall be desirous for that purpose to execute all or any of the works hereinafter mentioned, and shall be unable to execute such works by reason of the objection, absence or disability of any person whose land would be entered upon, cut through or interfered with by or for the purpose of such works, to apply by memorial to the Commissioners, showing the means by which such land may be drained or such improvement may be effected, and praying for authority to effect such drainage or improvement under the provisions of this Act; and to such memorial shall be annexed a map or plan, showing the land to which such application shall relate, and the land and property required to be entered upon, cut through or interfered with for the purposes of such drainage or improvement, or likely to be affected by the proposed works, and also the rivers, watercourses, ditches and drains intended to be cleared, scoured, deepened or embanked, and the proposed variations, divisions, abridgments or enlargements of the same, and the new cuts, embankments, drains, watercourses and other works proposed to be made, and the engines and machinery proposed to be erected for the purposes of such drainage or improvement, and also Schedules showing the reputed proprietors, lessees and occupiers of the lands proposed to be drained and improved, and the lands and property required to be entered upon, cut through or interfered with respectively for the purposes of such drainage or improvement, and also an estimate of the expense of the proposed

posed works, engines and machinery, including the probable amount of money payable as purchase and compensation money in respect of the land and property required to be entered upon, cut through or interfered with, and also a statement of the actual condition of the lands proposed to be drained or improved, and of the probable increased value of the land consequent upon the proposed works; or in case it shall appear to the Commissioners that a correct judgment can be formed on the proposed means of drainage or improvement without a map or plan and estimates including the whole of the land to which such memorial shall relate, then a map or plan showing only the proposed works, or such other map or plan as the Commissioners shall think necessary, and such memorial, or some schedule thereto, shall also show the persons by whom the works are proposed to be executed; and the persons by whom such application shall be made, shall, upon the request of the Commissioners, furnish such further details in respect of the said map or plan, schedules, estimates and statements, or any of them, as the Commissioners shall think fit for their guidance in the matter of the memorial; and the persons by whom such application shall be made shall cause copies of the said memorial, map or plan, schedules, estimates and statements, or of such of them as shall have been furnished to the Commissioners under the provisions hereinbefore contained, to be deposited in such convenient place or places as the Commissioners shall approve, within or near the parish or one of the parishes in which the land to which such application shall relate shall be situate, there to remain open for public inspection; and the deposit of such copies shall be certified to the Commissioners in such manner as they shall require; and all persons shall be at liberty to inspect and make copies of or extracts from the said memorial, map or plan, schedules, estimates and statement, or any of them, and copies thereof or extracts therefrom shall be made by such person as the Commissioners shall direct for any person who shall require the same, on payment of the costs of making such copies or extracts.

5. Declaration of notice that memorial has been deposited. Objections to be sent to the Commissioners in writing.

And be it Enacted, That the Commissioners shall require the persons making such application as aforesaid to cause a notice of such memorial having been presented, and of the parishes in which works are by such memorial proposed to be executed, and of the places in which copies of the said memorial, map or plan, schedules, estimates and statements have been deposited as aforesaid, to be given by advertisement, and to cause a like notice to be served on all persons not parties to the said application whose lands are proposed to be entered upon, cut through or interfered with; and such service shall be either personally on the lessee or occupier of such land, or by leaving such notice at the usual or last known place of abode of such lessee or occupier;

occupier; and also if the proprietor or reputed proprietor of such land shall be known to the persons making such application, or to the Commissioners, the like service of such notice shall be made on him, either personally or by leaving the same at his usual or last known place of abode; and by such notice all parties interested or in any way affected by the proposed works, shall be required, on or before a day to be therein named, not sooner than Six Weeks from such publication and service as aforesaid of such notice, to transmit in writing to the Commissioners all objections which such parties shall think fit to make with respect to any thing by the said memorial proposed to be done under the provisions of this Act.

6. Commissioners may require security for costs of inquiries.

And be it Enacted, That the Commissioners may in every case, before they shall proceed to act or inquire on or in relation to any such memorial as aforesaid, require such provision or security to be made or given as they shall think fit, for the payment by the parties making the application of all costs incident to or to be occasioned by the inquiries and proceedings in relation thereto.

7. Assistant Commissioner to examine and hear Objections.

And be it Enacted, That in every case in which there shall have been transmitted to the Commissioners objections to any thing by the said memorial proposed to be done, the Commissioners shall appoint an Assistant Commissioner to inspect the lands proposed to be drained or improved, and the lands intended to be entered upon, cut through, interfered with, or affected by the works in such memorial mentioned; and the Commissioners shall, if they shall think necessary, call one or more public meetings, of which, Twenty-one Days' notice at the least shall be given by advertisement, of all persons likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of Six Weeks, and at such convenient place or places within the parish or one of the parishes wherein such land so to be drained or improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice; and at the time and place named in such notice as aforesaid, the Assistant Commissioner, so appointed as aforesaid, shall attend and shall have power to adjourn any meeting from time to time, or hold any new meeting as he may find necessary, and shall inquire into the correctness of the Schedules containing the names of such reputed proprietors, lessees and occupiers as aforesaid, and shall inquire whether the notices by the Act required shall have been duly given and served, and shall hear and inquire into all such objections as shall have been or shall be then and there made by any person or persons interested in any land likely to be affected by any thing by such memorial proposed to be done; and the said Assistant Commissioner shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid.

8.

Assistant Commissioner to report.

Commissioners to consider proposed Drainage.

And be it Enacted, That the Assistant Commissioner appointed as aforesaid shall report his opinion on the proposed drainage or improvement, and on the objections thereto, with the evidence taken by him at the meeting or meetings (if any shall be held as aforesaid), or otherwise, to the Commissioners, and the Commissioners shall consider the proposed drainage or improvement, and such objections as may have been made thereto, and may make further inquiries, and take further evidence in relation thereto, if they shall think fit; and in case they shall be of opinion that such drainage or improvement may be effected without material detriment to the lands proposed to be cut through or affected, or that the drainage to the lands so proposed to be cut through or affected, may be adequately and effectually compensated under the provisions of this Act, they may allow such works, according to the proposal in such memorial contained, or with such alterations therein as they may think fit; and it shall be lawful for the Commissioners, by an order under their seal, to authorize the persons by whom such application shall have been made or any of them, or any other person or persons to be named or described by the Commissioners in such order, to execute the proposed works, as the same shall have been allowed as aforesaid, within a time to be limited in such order; and such order, or some plan thereunto annexed, shall specify or describe the works thereby authorized to be executed; and the person or persons authorized in this behalf by such order, or the person or persons who shall be authorized by any supplementary order of the Commissioners, shall have full power to execute the works in such order specified and authorized according to the terms and intent of such order, and to maintain such works for ever thereafter, subject, nevertheless, to the provisions hereinafter contained, and making compensation, to be ascertained in manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of the powers granted by such order or any of them.

Commissioners may, by order under their seal, authorize the execution of the Works allowed by them.

9.

Description of works which may be executed.

And be it Enacted, That it shall be lawful for the person or persons authorized as aforesaid to enter into and upon any land in the order of the Commissioners, or the plan thereunto annexed, described or shown, and in conformity with the terms of such order, but not otherwise, to widen, straighten, deepen, divert, scour or cleanse any river, stream, ditch or drain, brook, pool or watercourse, and to make, open and cut any new watercourse, side-cut, ditch or drain, and to alter or remove any bank, sluice, floodgate, clough, hatch, weir, dam or other obstruction, and to make or erect any bank, sluice, floodgate, hatch, ditch, drain, tunnel or other works necessary or convenient for drainage, and to dam, bar and stop up with any weir or dam any river or watercourse, and to erect and maintain on such land steam and other engines and machinery: Provided always, That no entry shall be

Entry not to be made

without consent until compensation is paid.

be made on any land for the purposes aforesaid, except with the consent of the proprietors thereof, until the amount of compensation for the damage to be occasioned by such entry, and by the execution and maintenance of the works authorized as aforesaid, shall have been agreed upon or ascertained, as the case may be, and paid, under the provisions hereinafter contained or agreed to.

10. Power to purchase lands for sites of Engine-houses, &c.

And be it Enacted, That it shall be lawful for the Commissioners by any such order as aforesaid to authorize any person or persons therein mentioned to purchase and take as the site of any engine-house, or for anyother purpose necessary for the works thereby authorized, any land in such order to be described: Provided always, That not more than Three acres be purchased or taken under this clause otherwise than by agreement, and all the provisions of "The Lands Clauses Consolidation Act, 1845," with respect to the purchase of land otherwise than by agreement; shall apply to the purchase of any land not exceeding Three acres, which shall be specially described in such order, and which shall be thereby authorized to be taken otherwise than by agreement, and the provisions of the last-mentioned Act with respect to the purchase of land by agreement shall apply to the purchase of any land by such order authorized to be purchased except as aforesaid; and all lands to be purchased or taken under this clause shall be conveyed to or held by such persons and upon such trusts as the Commissioners shall by such order direct.

11. The Lands Clauses Consolidation Act, 1845, incorporated with this Act.

And be it Enacted, That the compensation to be paid for the damage or injury to any lands which may be entered upon, cut through or interfered with under any such order of the Commissioners as aforesaid may be agreed upon with the persons and in the manner provided by "The Lands Clauses Consolidation Act, 1845," with respect to the purchase of land otherwise than by agreement; and the persons who in such order of the Commissioners shall be authorized to execute the works in such order mentioned, shall, for the purposes of the last-mentioned Act and of this Act, be deemed the promoters of the Undertaking; and all other the provisions of "The Lands Clauses, Consolidation Act, 1845," shall be incorporated with this Act, and shall apply thereto and to the works and purchases to be authorized by the Commissioners, in such and the same manner as if the works and purchases which shall be authorized by the Commissioners had been set forth and authorized to be executed and made by this Act.

12. Copies of Orders authorizing Works to be made and deposited.

And be it Enacted, That Two copies of every Order of the Commissioners by which they shall authorize the execution of Works under the provisions of this Act, shall be made and sealed with the seal of the Commissioners, and one such copy shall be deposited with the Clerk

Clerk of the Peace of the county in which the land authorized to be drained, or the greater part thereof, shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapel Wardens for the time being of the parish in which the said land or the greater part thereof shall be situate, to be kept by them and their successors in office with the public books, writings and papers of the parish, or shall be deposited with such other fit persons as the Commissioners shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy on giving reasonable notice to the person having custody of the same, and on payment of Two Shillings and Sixpence for such inspection, and after the rate of Three-pence for every Seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any such order as aforesaid as shall be furnished by the Clerk of the Peace, shall be signed by the Clerk of the Peace or his Deputy purporting the same to be a true copy or extract; and every such copy and extract so signed shall be received in evidence without further proof thereof.

13. Parties whose Lands are injured by neglect of others to maintain or secure drains, &c. may, after notice to the neglecting party, do the work necessary to remedy the evil.

AND whereas, by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks and cleanse and scour the channels of existing drains, streams or watercourses lying in or forming the boundaries of such lands, and being or leading to the outfall from such lands and from other lands, much injury is occasioned and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where by reason of the neglect of any such proprietor or occupier to maintain or join in maintaining the banks, or to cleanse and scour, or join in cleansing and scouring the channels of existing drains, streams or watercourses lying in or bounding the lands of such proprietor or occupier, injury shall be caused to any other land, it shall be lawful for the proprietor or occupier of any land so injured to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing delivered to him or left at his usual place of abode, effectually to maintain such banks or cleanse or scour such channels, or to join in effectually maintaining such banks or cleansing and scouring such channels of such drains, streams and watercourses; and in case he shall neglect so to do, it shall be lawful for the proprietor or occupier of the land to which such injury shall be caused, immediately after the expiration of Fourteen Days from the service of such notice as aforesaid, to execute or cause to be executed, or to join with any other person in executing or causing to be executed, all necessary works for maintaining or repairing such banks, or cleansing or scouring such channels as aforesaid; and

Expenses to be recoverable from neglecting party.

in case the expenses paid or incurred in executing or causing to be executed such works as aforesaid, or the just proportion thereof which should have been paid or borne by the proprietor or occupier so neglecting as aforesaid, shall not be paid to the person by whom the same shall have been paid or incurred by the proprietor or occupier so neglecting as aforesaid within Seven Days after demand, it shall be lawful for any Justice, upon the application of the person by whom such expenses shall have been paid or incurred, to summon the proprietor or occupier so neglecting as aforesaid to appear before Two Justices, at a time and place to be named in puch summons, and upon the appearance of the person so summoned, or in his absence upon due proof of the service of such summons, it shall be lawful for such Two Justices, upon proof of such neglect as aforesaid, and of the injury occasioned thereby, and of the expenses paid or incurred as aforesaid, to make an order for the payment by the proprietor or occupier so neglecting of the expenses aforesaid, or of such just proportion of the same as such proprietor or occupier so neglecting ought, in the opinion of the said Justices, to contribute and pay; and it shall be lawful for the said Justices, upon any such application as aforesaid, to award such costs to be paid by such party and in such manner as to such Justices shall seem reasonable, and the amount of such expenses and costs respectively may be recovered by distress.

14. No entry to be made on the lands of neglecting proprietor without warrant of Two Justices.

Provided always, and be it Enacted, That unless such drain, stream or watercourse as aforesaid shall be a boundary of or immediately adjoining to the land of the proprietor or occupier whose land shall have been injured by such neglect as aforesaid, it shall not be lawful for the proprietor or occupier whose land shall have been so injured to enter upon the land of any other person in the execution of the works aforesaid, without a warrant or authority in writing so to do from Two or more Justices, which warrant or authority such Justices shall grant upon inquiry had before them, after a summons served upon the proprietor or occupier of the land so to be entered upon, if it shall appear to such Justices that the neglect of the proprietor or occupier of the land so to be entered upon has occasioned injury to the lands of the proprietor or occupier applying for such warrant or authority: Provided also, That it shall be lawful for the Justices before whom any proprietor or occupier of land shall be summoned to appear under this Act, and whether such proprietor or occupier shall or shall not have appeared to adjourn the hearing or further hearing of any application for any order, or for any warrant or authority under this Act to a subsequent day, and to appoint a competent person to view in the meantime the drain, stream or watercourse, and to report thereon to the Justices on the day to which such hearing shall have been adjourned, or the said Justices, or any of them, may in the meantime attend and view such drain, stream or watercourse.

And

15. Expenses and costs to be levied by distress.

And be it Enacted, That if, upon any adjudication of the Justices, the amount of the expenses ordered to be paid, and of such costs as aforesaid, be not paid, the amount of such expenses and costs shall be levied by distress; and such Justices or either of them, or any other Justice, shall issue their or his warrant of distress accordingly; and every sum of money to be levied by distress as aforesaid shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the surplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

16. Distress not unlawful for want of form.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, adjudication, warrant of distress, or other proceeding relating thereto; nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him; but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

17. Saving of local Drainage Acts.

Provided always, and be it Enacted, That nothing in this Act contained shall affect the rights, duties, privileges, powers or authorities vested in or to be discharged by any Commissioners of Sewers appointed by any Commission under the Great Seal, or under the Seal of the Duchy of Lancaster, or by any other lawful Commission of Sewers, or the Commissioners appointed under any local or private Act of Parliament for sewers or drainage, or shall extend to or affect any charter, law, usage or custom concerning Romney Marsh, or concerning the Great Level of the Fens, called the Bedford Level, or any part thereof.

18. Saving of navigable rivers and canals.

Provided always, and be it Enacted, That it shall not be lawful for any person acting or pretending to act under this Act, to make or construct, alter or extend on the shore of the sea, or of any creek, bay or arm of the sea, or any navigable river communicating therewith, where and so far up the same as the tide flows, any work which might not have been lawfully made or constructed in case this Act had not been passed, without the previous consent of the Lord High Admiral of the United Kingdom of Great Britain and Ireland, or the Commissioners for executing the Office of Lord High Admiral of the United Kingdom aforesaid for the time being, to be signified in writing under the hand of the Secretary of the Admiralty, and then only according to such plan and under such restrictions and regulations as the said Lord High Admiral, or Commissioners for executing the Office of Lord High Admiral aforesaid may approve of, such approval being signified as last aforesaid;

and if any such work shall be commenced or completed contrary to the provisions of this Act, it shall be lawful for the said Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral aforesaid, at his or their discretion, to abate and to remove the same, and to restore the site thereof to its former condition, at the cost of the person, or of any one or more of the persons by whom the same shall have been so commenced or completed; and nothing herein contained shall authorize or enable any person acting or pretending to act under this Act to make or construct any work injurious to the navigation of any navigable river or canal.

19. Definition of Terms.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act is repugnant to such construction), "the Commissioners" shall mean the said Inclosure Commissioners for England and Wales; and the word "Plan" shall extend to drawings and sections; and the word "River" shall extend to all rivers, rivulets, lakes, canals, streams and estuaries; and the word "Person" and the word "Proprietor" shall extend to The Queen's Majesty, and to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons; the word "Justice" shall mean Justice of the Peace acting for the county, riding, city, division, liberty or other place, where the matter requiring the cognizance of any such Justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorized or required to be done by Two Justices, the expression "Two Justices" shall be understood to mean Two or more Justices assembled and acting together in petty sessions; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

20. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

(Ireland.)

A

B I L L

To amend an Act of the Sixth Year of Her present Majesty, for promoting the Drainage of Lands and Improvement of Navigation and Water-power, in connexion with such Drainage in Ireland."

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by an Act passed in the sixth year of the reign of Her present Majesty, intituled, "An Act to promote the Drainage of Lands, and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland," it is amongst other things enacted, that if the Proprietors of Two-thirds or more in extent of the Lands proposed to be drained or improved by drainage under the provisions of the said Act, should have assented in writing to the execution of the proposed works, the Commissioners acting in execution of said Act should make and sign a declaration, describing the Lands proposed to be drained or improved, and declaring the then actual value thereof, and the increase in such value by means of the proposed works, and the proportion in which such Lands should be chargeable towards the expense of the proposed works, such proportion being fixed according to such actual value and such estimated increase as aforesaid, and also stating the several other matters and things in and by the said Act authorized and required; and it is by the said Act further enacted, that it should and might be lawful for the Commissioners appointed under the said Act, from time to time, as occasion should require, to borrow and take up at interest any sum or sums of money required for defraying the costs, charges and expenses to be incurred by them in the execution of any works

Preamble: 6 Vict. c. 89.

s. 33.

s. 99.

for the drainage and improvement of any Land, or the navigation of any river, or the formation of any reservoir under or by virtue of the said Act, and that the repayment of such sum or sums of money, with interest at a rate not exceeding Five Pounds per centum per annum, should be secured to the party lending the same upon the monies accruing to the said Commissioners, under or by virtue of the award to be made by the said Commissioners, as in the said Act

Sec. 106. mentioned ; and it is in and by the said Act further enacted, that as soon as conveniently might be after any works for the drainage or improvement of any Land, or the navigation of any river under the said Act, or any other work by the said Act authorized, should have been completed, the Commissioners should draw up an award or instrument in writing, in the manner and form therein particularly mentioned and described, and that the respective sums of money which by the award

Sec. 110. of the said Commissioners should be specified as the proportions or contributions payable in respect of the several parcels or portions of the Land drained or improved by drainage, or by any works under the said Act, towards the total amount of the sums expended in and about such drainage or improvements as aforesaid, with interest for such respective sums of money, at a rate not exceeding Five Pounds per centum per annum from the date of such award, should be charged on such several parcels or portions of the Lands so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such Land ; provided, nevertheless, that any quit or chief rent issuing thereout, or other incumbrance thereon, previously to the date of the said award, should have priority to such charges, to the extent of the value of such land before the improvements were effected, but no further ; and the same respective sums of money, with such interest for the same as aforesaid, should also be charged upon so much of any other Land situate within One Mile of any part of the Lands so drained or improved, and settled with the Land so drained or improved, to the same uses, intents and purposes, by virtue of limitations contained in the same instrument or the same set of instruments as the said Commissioners should by their said award, or any instrument under their hands and seals enrolled in the Rolls Office, direct, limit and appoint, having regard to the sufficiency of the said Lands to satisfy and secure the charge thereon ; but subject, as to such other Land, to the full amount of all incumbrances affecting the same prior to the date of the said award :

And whereas applications have been made to the said Commissioners for the Drainage of Land and the Improvement of Navigation and water-power of several rivers and lakes in Ireland, and Undertakings and Works for those purposes are now in progress under the direction of the said Commissioners :

And

And whereas it is expedient and just that the monies to be charged upon lands by any such award as aforesaid shall take priority and have effect as to such lands from the date of the said Declaration in and by the said Act authorized, instead of the date of the said award; and for the more effectual attainment and extension of the benefits likely to arise from the said Act, it is expedient to facilitate the raising of monies for the purposes thereof, and to amend the said Act in certain other respects as hereinafter mentioned;

1. Apportioned expenses of Works to be charged on Lands.

Be it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in the case of all loans to be effected and Declarations to be made by the said Commissioners after the passing of this Act, under the provision of said recited Act or this Act, the respective sums of money which, by the award to be made by the said Commissioners, shall be specified as the proportions or contributions payable in respect of the several parcels or portions of the land drained or improved by drainage, or by any works under the said Act or this Act, towards the total amount of the sums expended in and about such drainage or improvements as aforesaid, with interest for such respective sums of money at the rate not exceeding *Five Pounds* per centum per annum, shall from the date of such Declaration be charged on such several parcels or portions of the land so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such land, save only that any quit or chief rent issuing thereout, or other incumbrance thereon, previously to the date of the registry of such Declaration, as by this Act authorized and directed to be made by the said Commissioners, shall have priority to such respective sums of money so charged, to the extent of the value (as stated by the said Commissioners in any such Declaration) of such land before the improvements were commenced, but no further; and the same respective sums of money, with such interest for the same as aforesaid, shall also be charged upon so much of any other land situate within *One Mile* of any part of the lands so drained or improved, and settled with the lands so drained or improved, to the same uses, intents and purposes, by virtue of limitations contained in the same instrument or the same set of instruments as the said Commissioners shall by the said award, or any instrument under their hands and seals, and inrolled in the Rolls Office, direct, limit and appoint, having regard to the sufficiency of the said lands to satisfy and secure the charge thereon, but subject, as to such other land as aforesaid, not being part of the lands so drained or improved, to the full amount of all incumbrances affecting the same prior to the registry of such Declaration.

2. Provisions in recited Act as to charge on Lands to apply to Land of the same Proprietor.

And be it Enacted, That the provisions in the said recited Act and this Act contained, relating to the charge of any monies or interest on land situate within *One Mile* of any part of the land drained or improved, shall be deemed and construed to extend and apply to all land belonging to the same proprietor, as the land so drained or improved, situate within *One Mile* of any part of the lands so drained and improved, for all his estate and interest existing at the time of such declaration of the said Commissioners as aforesaid.

3. The Proprietors may give other security in lieu of the Lands to become chargeable.

And be it Enacted, That if any Proprietor shall prefer to give other security in lieu of the lands so situate within *One Mile* of the lands drained or improved as aforesaid, such security shall be given within a time to be fixed by public notice by the Commissioners previous to the date of the Declaration aforesaid, any thing in the said Act to the contrary notwithstanding.

4. The whole of the lands chargeable shall be described in the Declaration.

And be it Enacted, That the extent of the whole of the land or premises which, under the provisions of said Act or this Act, may become chargeable with the monies expended, in pursuance of the provisions thereof, shall be entered, stated or described, in every such Declaration, as hereinbefore mentioned, to be made by said Commissioners; and when such Declaration shall be finally settled, a copy thereof shall be printed, and deposited with the Clerk of the Peace, as in said Act directed.

5. The Commissioners to cause Memorandam of Declaration to be drawn up and registered.

And be it Enacted, That so soon as conveniently may be after the making of any such Declaration as in and by the said recited Act or this Act authorized as aforesaid, the said Commissioners shall draw up a memorandum or instrument in writing, setting forth therein the several lands (with the county, county of a city or town, and barony or parish in which the same may be situate,) which shall be the subject of or contained in such Declaration, and also setting forth the proprietors of such lands respectively, and which memorandum or instrument shall be signed and sealed by the said Commissioners, and be in the Form in the Schedule marked (B.) to this Act annexed, or as near thereto as the circumstances of the case will admit; and the said Commissioners shall, at the same time, sign and seal a memorial of such memorandum or instrument, directed to the Registrar for registering deeds, conveyances and wills in Ireland, and cause the memorial of such instrument to be registered in the office for registry of deeds in the city of Dublin; and the Registrar of said registry office, his and their assistant, deputies and other officers, are hereby authorized and required to receive and register the same, in such and the same manner as any deeds or instruments are registered in said office, and enter all such memorials of such instruments in the abstract books, and indexes of or relating to memorials registered and kept in the said

said offices, subject to the payment of such fees as may now be lawfully demanded and received upon the registry of memorials of deeds in the said office.

6. No such instrument liable to stamp-duty.

And be it Enacted, That no such instrument or memorial as aforesaid shall be subject or liable to any stamp-duty.

7. Declarations heretofore made to be registered.

And be it Enacted, That the said Commissioners shall, within *Three* Months from the passing of this Act, draw up memorandums or instruments in writing, in the manner and form aforesaid, or as near thereto as the circumstances of each case will admit, of the several Declarations heretofore by them made under the provision of the said recited Act, and memorials thereof respectively, and cause the said memorials to be entered and registered in the Register's office for registering of deeds in the city of Dublin, in the same manner as last aforesaid.

8. No appeal, unless notice in writing Fourteen Days after the Declaration.

And be it Enacted, That no appeal to any Assistant-barrister against any Declaration to be made by the said Commissioners shall be heard, unless a notice in writing of such appeal be lodged with the Secretary of the said Commissioners at their office in Dublin within *Fourteen* Days next after the publication of such Declaration.

9. Power to borrow money to pay interest pending execution of Works.

And be it Enacted, That when the said Commissioners shall think fit to borrow or raise at interest, or shall have borrowed any sum of money under the powers for that purpose given by the said recited Act or this Act, it shall and may be lawful for the said Commissioners, if they shall so think fit, to include in such loan, as well the principal sum estimated to be required, as all interest which may be agreed to be paid thereon during the interval between such loan and the making of the award relative to the works for which such loan may have been contracted, such interest to be payable half-yearly or otherwise as the said Commissioners shall think fit; and all sums so borrowed for payment of interest shall be secured in like manner as the principal sum, of which the interest shall have been so provided for as aforesaid.

10. Certificate of Loans may be transferred by endorsement.

And be it Enacted, That from and after the passing of this Act it shall not be necessary that any transfer of the right or interest in or to any sum secured by any certificate heretofore issued or hereafter to be issued under the said recited Act or this Act shall be in any specified form, and that every person who shall be entitled to the money secured by any such certificate, may transfer his right and interest to the principal sum and interest money thereby secured to any person by endorsement thereon, and that all rights and remedies of the person so endorsing in, to, or in respect of such certificate, shall, after such

endorsement, be vested in the person to whom such transfer shall be made, and that no such endorsement or transfer shall be liable to stamp-duty.

11. Commissioners may make Certificates payable within certain periods.

And be it Enacted, That it shall and may be lawful for the said Commissioners, in any case where they shall so deem fit, to make any certificate or set of certificates granted under the said Act or this Act for the whole of the monies required to be borrowed for such case, payable at any time (to be fixed as hereinafter provided) intervening between two periods to be stated in such certificates; and it shall be lawful for the said Commissioners to alter the form of the certificate provided by the said Act to suit the circumstances of each case, and such certificate so varied shall be equally good and effectual as if the same were according to the form by said Act prescribed.

12. Commissioners to determine by ballot the order in which Certificates shall be paid.

And be it Enacted, That where more than one certificate shall be so issued and made payable between two such periods as aforesaid, the Commissioners shall, as soon as may be convenient after the final settlement of their award, give notice in the Dublin Gazette, and in such other newspapers and by such other means as they shall think fit, to the holders of such certificates, of their intention, on a day and hour in said notice to be fixed, not sooner than *Fourteen* Days from the publication thereof, to hold a ballot for the purpose of determining the order in which such certificates shall be paid off; and upon the day and at or after the hour named, the Commissioners shall accordingly proceed to make such ballot in presence of such (if any) the holders of such certificates or their agents or representatives as shall attend at such ballot, and if none of such persons shall attend, then in the absence of such persons; and the result of such ballot shall be recorded in the office of the said Commissioners, and noted upon all such of the said certificates as shall be then or subsequently produced to the said Commissioners; and such record and notification shall be signed by the Secretary for the time being of said Commissioners, and all such certificates shall be paid off in the order so to be determined by such ballot.

13. The Commissioners may, on notice, pay off Certificates.

And be it Enacted, That in all cases of certificates issued in the mode hereinbefore prescribed, and also in all cases where, pursuant to the provisions of the said recited Act, the Commissioners are empowered or required to borrow money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, and shall issue like certificates at such reduced rate of interest, it shall and may be lawful for the said Commissioners, and they are hereby required to publish a notice or notices in the Dublin Gazette, and in such other newspapers as they shall deem fit, fixing a time not sooner than *Two* Months from the date of such notice, when the principal money secured by any or the whole of such certificates

tificates shall become payable, having regard to the order in which, in pursuance of the provisions of this Act and the said recited Act, such certificates shall have been made payable; and in such notice the certificates to become payable shall be described by the name of the district or work for which they have been issued, and the number, letter or other mark fixed by said Commissioners on such certificates; and it shall be lawful for the said Commissioners, at the expiration of the time in such notice stated, to pay off the monies due on account of such certificates named in such notice, and from and after the expiration of the time appointed by said notice, the interest on the principal monies secured by such certificates, shall cease and determine.

14. Commissioners may invest funds.

And be it Enacted, That it shall be lawful for the said Commissioners from time to time to invest in any of the public or Government funds or securities, in their names as such Commissioners, or in the name of their Secretary for the time being, for the benefit of the parties interested in such funds (but without risk to the said Commissioners), any sums of money applicable to the purposes of the said recited Act or this Act, which may be in their hands remaining unapplied.

15. Power to sue and be sued.

And be it Enacted, That the said Commissioners may and shall in all cases sue and be sued in the name of the Secretary of the Commissioners of Public Works in Ireland for the time being for and on behalf of the said Commissioners; and that in all indictments or criminal or civil proceedings the name of the Commissioners of Drainage shall be a sufficient description; and that no such action or suit at law or in equity shall abate or be discontinued by the death or removal of such Secretary; and the Secretary for the time being shall always be deemed the plaintiff or defendant in such action or suit (as the case may be).

16. Commissioners may in Declaration refer to Map, Plans and Schedules.

And be it Enacted, That it shall and may be lawful for the said Commissioners, in making any declaration or award, or doing any other act by this Act or the said recited Act authorized, to do so in and by reference to Maps, Plans and Schedules, or otherwise, as they may think best.

17. Assents to be in the form in Schedule.

And be it Enacted, That the assents of Proprietors and Owners, under the said recited Act, shall be in the Form in the Schedule (A.) to this Act annexed, or as near thereto as the circumstances of each case will permit, and that the assent of every Proprietor given under his hand in such form shall, to all intents and purposes, be conclusive against and binding upon such Proprietor of and all persons interested in the lands of such Proprietor, in respect of which such assent shall be given, and also upon and against the same lands respectively.

18. Production of assents to be proof of the execution thereof.

And be it Enacted, That the production of such assents by or from the office of the said Commissioners shall be deemed and taken in all Courts of Law and Equity as good and sufficient proof thereof, and of the due execution thereof, without any further or other evidence of the execution of same.

19. Officers to give security.

And be it Enacted, That every clerk, collector, receiver or other officer to be appointed or employed under the said recited Act or this Act, shall, when required so to do by the said Commissioners, give such security to the Secretary for the time being of the Commissioners of Public Works in Ireland, in such sum as shall be determined on by the Commissioners acting in execution of the said recited Act and this Act, conditioned for the due performance and execution of such duties and works for which such person or persons shall respectively be so appointed or employed as aforesaid, or in such other condition as the Commissioners may think proper and require; and each security shall and may be sued upon and enforced by the Secretary of Commissioners of Public Works for the time being for and on behalf of the said Commissioners.

20. Security for sums heretofore advanced.

And be it Enacted, That the respective sums of money which shall become chargeable under any award to be made by the said Commissioners in respect of any district as to which the said Commissioners have heretofore made a declaration, and money has been borrowed and taken up by them for the execution of any work in such district, shall, for the purpose of securing the money so borrowed and taken up by the said Commissioners, be charges on the lands to become chargeable therewith as in said Act mentioned, but with priority over all charges created on such lands after the passing of this Act.

21.

Provided, however, and be it Enacted, That the extent in value of the land drained or improved before the improvements were effected in said Act mentioned, shall be construed, deemed and taken as the value before the improvements were commenced.

22. Interpretation.

And be it Enacted, That the said recited Act shall continue and be in full force and effect, save and except so far as the same is altered by or inconsistent with this Act, and that the said recited Act and this Act shall be construed together as one Act; and that in the construction of this Act, except where the nature of the provision or the context of this Act shall exclude such construction, the words "lands," "river," "person" or "persons," "proprietor" or "proprietors," "quit or chief rent," and "counties," shall be construed to extend and be applied as in said recited Act is directed and provided; and every word importing the singular only shall extend and be applied

applied to several persons and things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; the words "said Commissioners" shall mean the Commissioners or any Two of them acting in execution of the said recited Act and this Act; and the word "proprietor" in the said recited Act and this Act, in addition to the meanings in the said recited Act applied to it, shall also mean the reputed proprietor.

23. Act may be altered or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULES

To which the foregoing ACT refers.

SCHEDULE (A.)

DRAINAGE ACT, Vict., c.

ASSENT.

District of

Whereas under the provisions of an Act passed in the sixth year of the reign of Her present Majesty, intituled, "An Act to promote the Drainage of Lands and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland," and of another Act passed in the year of the reign of Her present Majesty [here set forth the title of this Act], it is proposed to drain and improve by drainage certain lands within the district designated by the Commissioners for the execution of the said Act, the District of , in the Count of , for which purpose certain Maps, Plans, Sections, Estimate and Schedules have been lodged, in pursuance of the provisions of said first-recited Act, for public inspection for Six successive Weeks, as thereby directed, at in the Count of , and which said Maps, Plans, Sections and Estimate are signed by
Commissioners for the execution of the said Acts:

And whereas I, the undersigned, am a proprietor, within the terms of said Act, of some of the lands within said district, and comprised in said Schedules; that is to say, in the Townlands of

Now these presents witness, that I have assented and do hereby assent, as such proprietor, to the execution of the Works for the drainage and improvement by drainage of the lands within said district by the said Commissioners, pursuant to the provisions of the said Acts.

Witness my hand, this day of 184

Present

the undersigned, being tenant of of the above lands, whose concurrence in the above Assent is required, under the provisions of the said Act, do hereby consent to the execution of the said Works.

Witness my hand, this day of 184

Present when signed by

SCHEDULE

SCHEDULE (B.)

MEMORANDUM of a DECLARATION under the Drainage Act.

DISTRICT of , County of

WE, the Commissioners acting in execution of an Act made and passed in the sixth year of the reign of Her present Majesty Queen VICTORIA, intituled [here set forth title of the original Act], and also of another Act passed in the year of the reign [also title of this Act], have heretofore, to wit, on the day of 18 , made a declaration in the manner by the said Acts or one of them directed, and in the Schedule hereunto annexed we have set forth the several lands which are the subject of or contained in the said Declaration, as well as the names of the Proprietors of such Lands respectively.

In witness whereof, &c.

Signed, sealed and delivered by the said

In presence of

Townland.	Barony or Parish.	County, County of a City or Town.	Name of Proprietor.

Drainage (Ireland).

A

B I L L

To amend an Act of the Sixth Year of Her present Majesty, for promoting the Drainage of Lands and Improvement of Navigation and Water-power, in connexion with such Drainage in Ireland."

(*Prepared and brought in by Sir Thomas Fremantle and Mr. Attorney-General for Ireland.*)

Ordered, by The House of Commons, *to be Printed,*
3 *July* 1845.

440.

Under 2 oz.

SEWERAGE, DRAINAGE, &c. OF TOWNS BILL.

Arrangement of Clauses.

Preamble.

Limits of the Act:

1. Act to extend to the whole of England and Wales, except London, and any place within five miles of Charing-cross, and to come into operation in such places as Her Majesty, by the advice of Her Privy Council, and after inquiry by Inspector, shall order.

Inspectors:

2. Secretary of State to appoint Inspectors.
3. Salaries to be paid out of Consolidated Fund.
4. Inspector to make inquiries previous to the issuing an Order in Council for enforcing the Act.
5, 6 and 7. Inspector to prepare plans describing boundaries of districts, and, in certain cases, for dividing the same into wards, and assigning the number of Commissioners thereto.
8. Powers to inspect books and maps, and examine witnesses.
9. Plans to be published, and objections to the same to be made to the Secretary of State, who shall order further inquiry, if necessary, and amend plans.

Order in Council:

10. If plans approved, Her Majesty may make an Order in Council for bringing the Act into operation.
11. Order in Council to set forth and describe boundaries of towns, to specify times for holding first election of Commissioners, to nominate first Returning Officer, to specify the proportionate number of Trustees under local Acts to be elected Commissioners.
12. Order in Council to be published in Gazette.
13. Boundaries of towns to be as defined in the Order in Council.

Election of Commissioners by Rate-payers:

14. Commissioners to be elected, and to be a corporate body.
15. A certain number of Commissioners to be elected by owners and occupiers. The number of Commissioners to be in proportion to the number of inhabitants, on the following scale:—If not more than 10,000, 9; if not more than 20,000, 12; and 3 for every additional 10,000 inhabitants up to 70,000. The whole number not to exceed 27.
16 and 17. At the first election, owners and occupiers of property rated to the poor to the amount of £.10 to have a right to vote. Cumulative right of voting where property of a certain amount.
18. Overseers to make out list of voters, and to attend at poll with rate-books.
19 and 20. At subsequent elections, all owners and occupiers of property who have paid rates for any of the purposes of this Act to have a right to vote.
21. Clerk to Commissioners to make out list of voters.
22. Returning officer to appoint poll-clerks, &c.
23. Voter at elections to deliver to Returning Officer a paper, describing his qualification, &c., and, if required, to answer questions.
24. Joint owners and occupiers may vote.
25. When poll may be closed.
26. Returning Officer to examine poll-books and declare the poll.
27. Voting papers to be open to inspection for Six Months.
28. Expenses of election to be paid out of rates.
29. One-third of Commissioners to go out of office every Third Year.
30. Manner of making rotation lists.

Selection of Commissioners from Town Council:

31. In corporate towns a certain number of Commissioners to be selected from the Town-council. The number to be apportioned to the number of Aldermen and Councillors in the Schedules (A.) and (B.) in the Corporation Amendment Act. Mayor to be a Commissioner ex-officio.
32. Manner in which Commissioners are to be selected from the Town Council.

Selection of Commissioners from Justices :

33. A certain number of Borough Justices to be selected as Commissioners, in proportion to the population, not less than two, nor more than six.
34. Manner of their selection.
35. In Towns not Corporations, County Justices to be selected in the same manner and proportion.
36. Manner of their selection.

Selection of Commissioners from Local Boards of Trustees :

37 and 38. A certain number of Commissioners to be selected from Trustees under existing local Acts, according to the population. Manner of their selection.
39, 40 and 41. General rules for regulating Elections.

Qualification of Commissioners :

42, 43 and 44. Commissioners to be inhabitants, or residing within seven miles. Property qualification varying according to the population. How distance to be measured.
45 and 46. Commissioners to make a declaration before acting at first meeting.
47 and 48. Penalty for making a false declaration, or acting without being duly qualified.
49. No bankrupt or insolvent to be a Commissioner.
50. Commissioners not to be concerned in any contract.
51. Commissioners may act as Justices.
52. Commissioners re-eligible at the end of period of service.
53 and 54. Occasional vacancies to be filled up by Commissioners.

Meetings of Commissioners, and mode of transacting Business :

55, 56 and 57. Quarterly and weekly meetings to be held.
58. to 62. Regulations for transacting business at meetings.
63. Commissioners to provide an office, and daily attendance thereat.
64 and 65. Committees may be appointed.
66 and 67. Order of business.
68. Powers of Commissioners to make contracts. Plans and estimates to be approved by Inspector.
69. How property shall be described in indictments.
70 and 71. Notices, how to be given to and by the Commissioners.
72. Commissioners to keep a book, in which the minutes of their proceedings are to be entered, and kept open for inspection.

Officers :

73 and 74. Commissioners to appoint a Surveyor, Clerk and other officers.
75. Offices of Clerk and Treasurer to be separate.
76. Penalty on officer taking fees.
77. Commissioners to take security from officers entrusted with money.
78. Officers to account.
79 to 82. Remedy against officers failing to account.
83 and 84. Commissioners may make bye-laws for regulation of their servants.

Accounts :

85. Accounts to be kept of receipts and disbursements, open for inspection.
86. Accounts to be settled and examined at an annual meeting, and may be appealed against.
87. General statement to be made, and kept open for inspection.

Auditors.

88. Auditor of accounts to be appointed by Secretary of State ; salary to be paid by Commissioners.
89. Auditor to examine accounts.

Powers

Powers and Duties of Inspectors:

90. Inspectors to visit towns and make reports.
91. Inspectors may attend meetings of the Commissioners.
92 and 93. Inspector, if required, to prepare plans of new works and estimates.
94 and 95. May enter lands for the purpose of making surveys.
96. Inspector's report to be sent to the Secretary of State.

Maps:

97 and 98. Maps to be provided, with contour lines, &c.
99. If surveys have been made by Her Majesty's Board of Ordnance, copies to be obtained by the Commissioners.

Trustees under Local Acts:

100. Powers of Trustees under local Acts, for the same purposes as contained in this Act, to cease, when Act comes into operation in any town.
101. Certain provisions in local Acts repealed.
102. Other powers transferred to Commissioners under this Act.
103. Property of such Trustees to become vested in Commissioners under this Act.
104. Debts due under such local Acts to be payable by Commissioners under this Act.
105. All contracts, &c. to remain in force.
106. Powers under local Acts not inconsistent with this Act to remain in force.
107. Provisions not to extend to local Acts where parties are beneficially interested.
108. Officers appointed under local Acts to be continued in certain cases.
109. Officers, if dismissed, to receive compensation.

Powers and Duties of Commissioners:

110. Commissioners to provide suitable buildings and premises.

Paving:

111. Commissioners to be Surveyors of Highways.
112. Streets vested in the Commissioners.
113. Commissioners to pave streets.
114. Certain streets not highways, to levelled and paved.
115 and 116. Streets may be declared highways, when repaired and put in good order.
117. Levels of new streets to be settled by Commissioners.
118. New streets to be of a certain width.
119. Commissioners may place fences to footways.
120. Persons altering pavement without the consent of the Commissioners, to be subject to penalty.
121. Persons breaking up pavements, to reinstate them, and guard with lights, &c.
122. Commissioners may contract with companies for restoring pavements.
123. Commissioners to be liable to indictment for want of repairs.
124. Persons rated to the paving rate under this Act to be free from highway rates; liability of Turnpike Trustees not to be affected.

Drainage, Public Sewers:

125. Towns to be effectually sewered; inspector to furnish Commissioners with an estimate of cost of the sewerage works.
126. Separate levels may be formed for the purposes of sewerage.
127. All sewers to be vested in the Commissioners, and be under their management and control.
128. Commissioners to make new sewers.
129. Mills and other obstructions to drainage may be purchased.
130. Commissioners may alter sewers.
131. Commissioners to restore private drains, if injured by them.
132. Commissioners to purchase sewers of persons beneficially interested.
133. Reservation of right to use sewers.
134. List of houses in respect to which the right to use sewers has been acquired, to be furnished to Commissioners.

135. Sewers may be made under turnpike roads.
136. Sewers in certain cases may be used by persons beyond the limits of the town or district.
137. Commissioners to give notice previous to the execution of works.
138. Persons aggrieved may appeal.

Private Drains :

139. Drains to be made from houses to communicate with sewers.
140. No houses to be built without drains.
141. Notice of buildings to be given to the Commissioners.
142. Houses to be built on proper level to be fixed by the Commissioners.
143. Private drains may be branched into sewers under certain regulations.
144. Commissioners may agree to make drains at the expense of owners.
145. Vaults and cellars under streets not to be made without the consent of the Commissioners.
146. Gully holes to be trapped.
147 and 148. Drains, privies and cess-pools, to be kept in good order, and to be subject to inspection by the officers of the Commissioners.
149. Penalty on persons making or altering drains contrary to order of Commissioners.
150. Powers of Commissioners to enter lands.
151. Bars to be erected across streets, and lights placed during repairs.
152. Situation of gas and water-pipes may be altered by Commissioners.
153. Recompense to be made for damage done.
154. Penalty for obstructing Commissioners in the execution of their duty.
155. Proceedings in case of tenants preventing their landlords from carrying into execution this Act.
156. Manner of recovering costs and expenses from owner.
157. Charges may be levied on occupier.
158. Occupier not to be liable for more than the amount of rent.
159. Tenants in possession at the time of the execution of works, may deduct rent in proportion to the length of the term.
160. Unoccupied and unproductive property may be let to defray expenses.
161. Commissioners may allow time to owners for repayment of expenses of paving streets and making drains.
162. Person in receipt of rent to be deemed the owner.

Cleansing :

163. Commissioners to cause streets to be cleansed, and dust and ashes to be removed from houses.
164. Refuse vested in the Commissioners.
165. Commissioners may water streets.
166. Scavengers to be appointed.
167. Regulations to prevent accumulations of dung.
168. Penalty for obstructing scavengers.
169. Penalty on persons other than scavengers removing dirt, &c.
170. Penalty for conveying offensive matter at improper times.
171. Stagnant pools of water and other annoyances to be removed.
172. Commissioners may require owners of houses to construct privy and ash-pit.
173. Owners of houses to keep privies and ash-pits in repair.
174. Public conveniences to be formed.

Medical Officer of Health :

175. Medical Officer may be appointed, subject to the approval of the Secretary of State, to inquire into and report upon the sanatory condition of any town or district.
176. Medical officer to perform post mortem examination when required by Coroner.

Nuisances :

177. Commissioners, on report of Medical Officer or otherwise, may order filthy and unwholesome houses to be cleansed and whitewashed.
178. Inspector of nuisances to be appointed for superintending the general execution of the provisions of this Act, and for receiving complaints and laying informations, if necessary.
179. Certain

179. Certain lodging-houses to be registered, and regulations to be made for their cleanliness, and for their inspection.
180. Slaughter-houses and knackers' yards to be registered.
181. Slaughter-houses may be inspected by proper officers, and unwholesome meat may be seized, and condemned by a Justice.
182. Certain nuisances may, after Act comes into operation, be abated or mitigated by order of Two Justices.
183. Penalty for disobedience of any such order. Power for any person aggrieved to appeal.
184. Commissioners to make bye-laws for the prevention of nuisances.
185. Bye-laws to be approved of by the Secretary of State, and a copy of them certified by the Clerk of the Commissioners to be evidence.
186. Bye-laws to be printed.
187. Persons offending against laws may be convicted summarily.
188. Commissioners may order proceedings to be taken for the prosecution of nuisances.
189. Persons not to let or occupy cellars as dwellings, unless they are constructed as provided by the Act.
190. Persons may be indicted for nuisances at common law.

Supply of Water:

191. Inspector to make a report on the sufficiency of the supply of water, and, if necessary, state the best means of increasing it.
192 & 193. Commissioners, with approval of Inspector, may contract with Water Companies for a supply, or may lease any powers vested in them.
194. Power to purchase springs of water, &c. by agreement, under provisions of Lands' Clauses Consolidation Act 1845.
195. Commissioners may take water from public streams with approval of Secretary of State.
196. If, for carrying out the Report of Inspector for supplying water, it is necessary for Commissioners to take lands without consent of owner, Commissioners to cause a map to be made, showing the extent and ownership of property to be taken. Notice to be given to parties interested.
197. Inspector to attend and hear objections of parties affected, and to report the evidence and his opinion thereon to the Secretary of State, who may authorize the taking of the lands.
198. Certain provisions of the Lands' Clauses Consolidation Act 1845 incorporated.
199. Commissioners not to lay down any pipes for the supply of water within certain districts already supplied by Water Companies.
200. Secretary of State may authorize Water Companies to increase their capital, under certain circumstances.
201. New shares to be subject to the same provisions as old shares.
202. If old shares at a premium, new shares to be offered to the shareholders.
203. Shareholders to have notice, and to declare their acceptance.
204. If shares are not at a premium, to be issued as company shall see fit.
205. Commissioners empowered to construct water-works, and obtain supplies of water.
206. Commissioners in constructing works not to deviate beyond the limits of deviation marked on the plan.
207. Commissioners not to appropriate waters without the consent of the owners.
208. Limited interest in land to be acquired under compulsory powers of purchase in certain cases.
209. Powers to use adjoining lands for temporary purposes. Compensation to be made.
210. Company to give notice previous to taking possession.
211. If required, Commissioners to agree with owner for the payment of a rent.
212. Commissioners to erect works for the convenience of owners of adjoining land.
213. Commissioners to make good all damages done or injuries sustained.
214. Streets broken up to be reinstated without delay.
215. Penalty for interrupting the construction of works.
216. Penalty for diverting water.
217. Districts for the supply of water to be arranged by the Inspector.
218. Commissioners required to lay down main pipes in streets.
219. Owners of houses to lay down service-pipes.
220. Communication to be made under the superintendence of Commissioners' surveyor.

 221. Persons

221. Persons supplied with water to provide cisterns and cocks, if required.
222. Penalty for suffering cisterns, &c. to be out of repair.
223. Persons other than owners of dwelling-houses not to make communication before agreement.
224. Water for other than domestic purposes to be supplied by agreement.
225. Water for domestic purposes defined.
226. Officers of Commissioners may enter and inspect premises.
227. Service-pipes may be removed.
228. Commissioners to provide service-pipes for houses not exceeding £.10 in yearly value, and charge rent for the same.
229. Commissioners may remove pipes, if rent not paid.
230. Owner to be at liberty to purchase the pipes.
231. Several houses may be supplied with one pipe.
232. Commissioners to afford a supply of water, by public cisterns and pumps, and for baths and washhouses for the poor.
233. In case of neglect to supply water, proportion of rent may be deducted.
234. Companies to supply water to Commissioners for public purposes.
235. Penalty for a failure of a supply of water.
236. Fire-engines, &c., may be provided by the Commissioners.
237. Commissioners to affix fire-plugs.
238. Companies to affix fire-plugs.
239. Fire-plugs to be kept in repair, and keys to be deposited in convenient situations.
240. Expenses to be defrayed by the Commissioners.
241. Proprietors of factories, &c. may require Commissioners to place fire-plugs.
242. Water may be taken to extinguish fire.
243. Water mains to be kept full under pressure.
244. Provision for supplying ships with water.
245. Penalty for persons taking water without right.
246. Penalty for damaging works.
247. Penalty for fouling water.
248. Penalty on gas-makers for corrupting water.
249. Daily penalty for escape of gas after notice.
250. Humane apparatus may be provided.
251. On request of Town Council, &c. Secretary of State may order Inspector to report on applications to Parliament for local Acts; reports to be laid before Parliament.

Rates :

252. Sewer-rate, paving-rate and general rate, to be made.
253. Rates to be levied on occupiers of houses and other property; lands excepted in certain cases.
254. Commissioners to fix the amount of money to be levied for the purposes of the water department.
255. Commissioners to make a water-rate.
256. Churches, chapels, &c. not to be liable to be rated.
257. Net annual value to be determined according to the provisions of the Parochial Assessment Act.
258. Poor-rate may be inspected and copied.
259. Districts may be formed for the purposes of rating.
260. Rates to be levied on separate and distinct districts.
261. Rates may be prospective or retrospective.
262. Owner of unoccupied premises may be rated to the sewer-rate.
263. Premises unoccupied at the time of making rate to be included; if afterwards occupied, proportion of rate to be paid.
264. Owners of property not exceeding £.10 to pay rates.
265. Owner may be rated without stating his name.
266. Deductions to be made in assessing owners of premises under £.10.
267. Notice of rates to be given.
268. Form of rate.
269. Rate may be inspected by rate-payers.
270. Rate may be amended.

Appeals against Rates:

271. Appeal to petty sessions on the ground of inequality.
272. Justices in petty sessions may amend rates, and award costs.
273. Parties may appeal to the quarter sessions against a rate.
274. Quarter sessions may amend or quash rate.

Recovery of Rates:

275. Rates to be recovered by action or distress.
276. Form of warrant of distress.
277. Persons about to quit liable to pay rates on demand.
278. Rates to be apportioned.
279. Rates due from owner may be recovered from occupier.
280. Occupier refusing to give name of owner liable to a penalty.
281. Occupier paying rates due from owner may deduct the amount from his rent.
282. One-half of sewer-rate may be deducted from the rent by occupier.
283. Paving, general and water rate paid by owners may be recovered from tenants in certain cases.
284. Liability to rates not to disqualify certain officers.
285. Property of Commissioners may be sold.
286. Effect of the word "grant," in conveyance.

Powers of borrowing Money:

287 to 289. Money may be borrowed on security of the several rates and works.
290. Monies borrowed on security of rates to be paid off in thirty years.
291. Form of mortgage.
292. Expenses of mortgages.
293. Register of mortgages to be kept.
294. Transfer of mortgages.
295. Register of transfers of mortgages.
296. No transfer or release necessary for mortgages.
297 to 300. Mode of paying off mortgages.
301 and 302. Mortgages in arrear may be enforced by the appointment of a receiver.
303. Mode of appointing receiver.
304. Proofs of debts in bankruptcy.
305. Tender of amends.

Damages:

306. Damages, how to be recovered.
307. Method of proceeding before Justices on questions of damage.

Penalties:

308. Publication of notice of penalties.
309. Penalty for defacing such notices.
310 to 321. How penalties may be enforced and recovered.
322 and 323. Parties may appeal to the quarter sessions.
324. When district in different jurisdictions, appeal will lie to either.
325. Interpretation of certain terms.

A

B I L L

For the Improvement of the Sewerage and Drainage of Towns and Populous Districts, and for making Provision for an ample Supply of Water, and for otherwise promoting the Health and Convenience of the Inhabitants.

[Note.—The Words and Clause printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it has of late been made apparent, that the Sewerage and Drainage of the Towns and populous Districts of this Realm, and the supply of Water for the domestic use of the Inhabitants, and for the due cleansing of Drains, are extremely defective or utterly neglected, especially in the districts chiefly inhabited by the poorer classes of Her Majesty's subjects, whereby excessive disease and great mortality have been occasioned : Preamble.

And whereas the general laws in force are wholly insufficient for the remedy of so great a mischief, and the like defects, for the most part, exist in the powers of Trustees, acting under the authority of divers local Acts :

And whereas it is expedient that remedy should be had therein, and that the arrangement of the supply of Water for domestic use, and for the cleansing of Sewers, Drains, Houses, Courts, Alleys and Streets should be combined, as often as may be practicable, with the management of the paving and cleansing of the surface of Courts, Alleys and Streets, and of the construction and maintenance of the Drains and Sewers and other works subservient to the preservation of the Streets and other public places, in a good and proper condition,

and that further provision should be made for promoting the health and convenience of the Inhabitants of Towns and Populous Districts;

1. Operation of the Act.

Be it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT this Act shall extend to and apply to the whole of England and Wales, except the city of London and its liberties, and any place situate within a radius of Five Miles from Charing Cross, in the city of Westminster.

2. Appointment of Inspectors.

And be it Enacted, That it shall be lawful for One of Her Majesty's Principal Secretaries of State to nominate and appoint a sufficient number of fit and proper persons, of competent skill and science, not exceeding to be Inspectors, for the purpose of superintending and otherwise assisting in carrying this Act into execution, and for performing the other duties required thereby; and it shall be lawful for such Secretary of State, from time to time as he shall think proper to remove such persons, and in their place to appoint other persons so qualified.

3. *Remuneration of Inspectors.*

And be it Enacted, That it shall be lawful for Her Majesty to grant to each of such Inspectors a salary not exceeding by the year, in Four equal quarterly payments; and if any such Inspector shall die, resign or be removed from office in the interval between two quarterly days of payment, then he shall be entitled to a proportionate part of the salary for the period of such interval during which he shall hold such appointment; and every such salary, together with the travelling and other expenses incurred by such Inspector in respect of such employment, shall be payable and paid by the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

4. Inquiries by Inspector.

And be it Enacted, That it shall be lawful for One of Her Majesty's Principal Secretaries of State, for the information of Her Majesty, previously to the making of an Order in Council for enforcing the provisions of this Act, within any town or district as hereinafter is provided, to direct, as he shall see fit, any such Inspector to inquire into and report on the state and condition of any town or district, particularly in respect to the state of the drainage thereof, the quality and quantity of water supplied to the inhabitants, the average amount of mortality among the population, and generally on the sanatory condition of such town or district, and on any other matters or things which may be deemed necessary and proper for the purpose of enabling Her Majesty to judge of the necessity and expediency of ordering the provisions of this Act to be in force within any such town or district.

And

5. Inspector to define boundaries of town, &c.

And be it Enacted, That every such Inspector shall further, if required, after due examination and inquiry, prepare a report, accompanied with a plan, on which he shall describe, define and mark down the most convenient and proper boundaries of such town or district, having regard to the necessary drainage, level and the other natural features of such district, and any other local circumstances, and he shall also ascertain and state, as near as may be, the number of inhabitants residing within the boundary of any such town or district as defined by him:

6. Division of towns and districts into wards.

AND whereas it is expedient, where the number of inhabitants residing within the boundary of any such town or district shall exceed Ten thousand, that such town or district shall be divided into wards, for the purpose of the election of Commissioners, in the manner hereinafter provided; BE it therefore Enacted, That wherever it shall appear that the number of inhabitants within the boundary of any such town or district exceeds *Ten thousand*, the Inspector shall, and he is hereby required, at his discretion, to divide any such town or district into any number of wards, not exceeding *Sixteen*, as shall appear to him most expedient; and he shall also describe and set out in the plan so to be made by him, the extent, limits and boundary lines of such wards, and what portions of such town or district may most conveniently be included therein respectively.

7. Number and appointment of Commissioners.

And be it Enacted, That the said Inspector shall also, as equally as may be, apportion among the several wards of such town or district the number of Commissioners to be elected by the rate-payers and owners of property for such town or district, as hereinafter provided; and in assigning the number of the said Commissioners to each ward, the said Inspector shall, as far as in his judgment he may deem it to be practicable, have regard as well to the number of persons rated to the relief of the poor in such ward, as to the aggregate amount of the sums at which all the said persons shall be so rated.

8. Power for Inspectors to inspect rate-books,

and to examine persons upon oath.

And be it Enacted, That every such Inspector shall have power to require any Overseer, or person having the custody of any map made in pursuance of the provisions of any Act of Parliament, or of any book containing any rate made for the relief of the poor in any parish or for any other purpose or place wholly or in part within any such town or district, to produce such book, and allow the same to be inspected by such Inspector; and every such Inspector shall have power to administer an oath to the Overseers and to all other persons, who are hereby required to answer upon oath all such questions as such Inspector may put to them, or any of them, touching any matter which such Inspector may deem necessary for enabling him to execute the duties by this Act imposed upon him.

9. Plans to be published.

And be it Enacted, That the plan and report of the said Inspector, with the description of the proposed boundary of any town or district, and the proposed division of the same into wards, and the proposed number of Commissioners to be assigned to each ward, as prepared by the said Inspector, shall, before any Order in Council is made for enforcing the provisions of this Act within any such town or district, be published in one or more newspapers circulating within the said town or district, for the information of the owners and occupiers of property within such town or district, and a copy thereof shall be deposited with the Town Clerk of any corporate town, or if not a corporate town, then with the Clerk to the Justices acting for any division of petty sessions held within such town or district; and copies shall also be sent to the Overseers of the parishes situate within any such town or district, who shall cause the same to be fixed on the doors of the churches and chapels within such town or district, and such report, when so published, shall be accompanied by a notification of some reasonable time, not less than *One Month*, to be determined by one of Her Majesty's Principal Secretaries of State, within which time written statements may be forwarded to the said Secretary of State by any owner or occupier of property within the said town or district, setting forth any grounds of objection to the adoption either as to the whole or any part of such proposed boundary, and the division of the same into wards, and setting forth any other plan, substitution, alteration or amendment proposed to be made therein; and such Secretary of State may, if he shall think fit, direct a further inquiry, and a hearing of the objecting parties on the spot by the said Inspector, or by any other person thereto specially appointed, as the case may require, and in case the objections so made to the proposed boundary, or to any part thereof, and to the division of the same into wards, shall, upon the report of the said Inspector or other person, appear to the said Secretary of State to be valid, he shall cause such alterations to be made therein as to him shall seem expedient.

10. Her Majesty may make an order for enforcing this Act.

And be it Enacted, That the said Secretary of State shall, if he see fit, submit such report and plan to Her Majesty in Council, and if it shall appear to Her Majesty, by the advice of Her Privy Council to be expedient that the provisions of this Act should be brought into operation within such town or district, then it shall be lawful for Her Majesty, by the advice of Her Privy Council, to direct, by an Order in Council, that at or from a time to be named in such order, the provisions of this Act shall be in full force and operation within such town or district.

11. Order in Council.

And be it Enacted, That every such Order in Council shall name the day at and from which the powers and provisions of this Act shall be in full force and operation within such town or district, and shall

set

set forth and describe the boundaries of such town or district, and the number of inhabitants therein, and the division thereof into wards, and the number of Commissioners assigned to each ward, and shall also specify the time or times of holding the first election or elections of Commissioners to be chosen for carrying into execution the provisions of this Act, and shall nominate a fit and proper person to be the Returning Officer at such election, and if within any such town or district there shall be two or more bodies of Trustees acting under any local Acts of Parliament, from which bodies a certain number of Commissioners are to be elected for the pursoses of this Act in the manner hereinafter provided, then such Order in Council shall specify the proportionate number of Trustees to be elected Commissioners from each of such bodies: Provided always, That it shall be lawful for Her Majesty, by the advice of Her Privy Council, by any supplementary order, to alter, vary and amend any of the provisions contained in such Order in Council.

12. Order in Council to be published in the London Gazette.

And be it Enacted, That every Order in Council made in pursuance of this Act shall be published in the London Gazette, and at and from the day to be named for that purpose in such Order all the powers and provisions of this Act, of whatever nature, shall be and are hereby declared to be in full force and operation in such town or district, and a copy of such Order shall be forwarded to the person nominated to preside as Returning Officer at the first election of Commissioners under this Act, which shall afterwards be delivered by him to the Clerk to the said Commissioners as soon as such officer shall be appointed, to be by him safely kept among the public documents of the said Commissioners.

13. Boundaries of towns, &c. to be as defined in Order of Council.

And be it Enacted, That every town or district shall, for the purposes of this Act, after the publication of such Order in Council, include all places which shall be comprehended within the boundaries thereof as described in the said Order, and every such town or district shall be divided into such wards as shall be described in the said Order, and such boundaries and such division into wards shall continue and be in force until the same shall be altered by the authority of Her Majesty, by the advice of Her Privy Council; and the number of Commissioners assigned by the said Order to each ward of such town or district shall, after such publication as aforesaid, be the number to be elected within such ward, and shall so continue until the same shall be altered by the authority of Her Majesty by the advice of Her Privy Council; and for all purposes connected with this Act, the number of inhabitants mentioned in every such Order shall be taken to be the true number of the inhabitants in any such town or district.

14. Commissioners elected and appointed under this Act to be a corporate body.

And be it Enacted, That when any town or district shall be made subject to this Act by any Order in Council as aforesaid, a certain number of persons qualified in the manner hereinafter provided shall be elected and appointed Commissioners for the purpose of carrying this Act into execution; and such Commissioners for the time being shall be a body corporate by the name of "The Commissioners for Waters and Sewers for " [naming the Town or District for which they are appointed]; and by that name shall have perpetual succession and a common seal, and shall have power to take, purchase and hold lands, tenements, hereditaments, goods, chattels and other property for any of the purposes of this Act within the restrictions therein contained.

15. Commissioners to be elected by rate-payers and owners of property.

And be it Enacted, That a certain number of duly qualified persons shall be elected by the occupiers and owners of property in manner hereinafter provided as such Commissioners for the purposes of this Act, (that is to say) *Nine* Commissioners for every town or district in which the number of inhabitants specified in such Order in Council shall not exceed *Ten thousand*; *Twelve* Commissioners for every town or district in which the number of inhabitants so specified shall not exceed *Twenty thousand*, and so at the proportion of *Three* additional Commissioners for every additional *Ten thousand* inhabitants specified in such Order in Council: Provided always, That in no case shall the number of Commissioners elected by the occupiers and owners of property as aforesaid exceed *Twenty-seven*.

16. First election of Commissioners elected by the rate-payers and owners of property.

And be it Enacted, That the first election of Commissioners to be elected by the rate-payers and owners of property for any town or district, shall be held by the Returning Officer who shall be nominated in that behalf in the Order in Council to be issued as hereinbefore is mentioned.

17. Qualification of voters at first election.

And be it Enacted, That every male person who shall be assessed as occupier in the rates made for the relief of the poor hereinafter mentioned in respect of any hereditament situate within any town or district made subject to the provisions of this Act by any Order in Council as aforesaid, at a yearly rateable value of *Ten Pounds* and upwards, and every male person who shall be the owner of any such hereditament, shall be entitled to vote at the first election of Commissioners to be elected by the rate-payers and owners of property for every such town or district; and every owner or occupier so entitled to vote shall give *One* vote if the hereditament in respect of which he is entitled to vote shall in such rate be assessed in a sum not exceeding *Fifty Pounds* yearly rateable value; *Two* votes of such hereditament shall be so assessed in a sum not exceeding *Seventy-five Pounds* yearly rateable value, and so on in the proportion of *One* vote for every additional *Twenty-five Pounds* of yearly rateable value; and where

where any such owner shall be duly assessed as occupier of any such hereditament, he shall be entitled to vote, as well in respect of his occupation as of his being such owner: Provided always, That if any town or district shall be divided into wards for the purpose of electing Commissioners under the powers of this Act, then every such owner or occupier shall vote according to the above-mentioned scale of voting, in the election of Commissioners for the ward or wards only, in which the hereditament in respect of which such owner or occupier is entitled to vote shall be locally situated.

18. Overseers to make out alphabetical lists of owners and occupiers rated to the poor's-rate.

And be it Enacted, That when any Order in Council shall be issued directing an election of Commissioners for any town or district, for the purposes of this Act, the Returning Officer appointed thereby to hold the first election of the Commissioners to be elected by the rate-payers and owners of property, shall send a copy of such Order in Council, signed by him, to the Overseers of every parish within such town or district; and thereupon such Overseers respectively shall, and they are hereby required, within *Twenty-one* Days after the receipt of such copy, to cause an alphabetical list to be made out in the form contained in Schedule (A.) to this Act annexed, or to the like effect, of the names of the occupiers of all hereditaments situate within the parish, and rated to the relief of the poor on the poor's-rate for such parish, which on the day of the date of such Order in Council was the last rate previously made for that purpose in such parish; and also an alphabetical list in the form contained in Schedule (A.) to this Act annexed, or to the like effect, of the names of the then owners of such hereditaments, which the said Overseers shall ascertain by making the necessary inquiries, or by referring to the rate-book; and such lists shall be delivered by such Overseers within the said period of *Twenty-one* Days, to the Returning Officer appointed to take the poll at such election; and such Overseers, and all Assistant Overseers, Rate Collectors, or other Parochial Officers, shall attend with the poor's rates, and such other documents as may be in their custody or power, at such places, and at such times, as the Returning Officer may direct, to enable him to take the poll, and shall answer all such questions as any presiding Officer at the poll shall put to them respecting the title of any person to vote at the election; and any Overseer, Assistant Overseer, Rate Collector, or other Parochial Officer, who shall wilfully neglect or fail to perform the duties hereby imposed upon him, shall for such neglect or failure forfeit and pay a sum not exceeding *Twenty Pounds*, nor less than *Five Pounds*.

Overseers to attend poll with rate-book.

19. Subsequent elections of such Commissioners.

And be it Enacted, That every election of Commissioners to be elected by the occupiers and owners of property, for any town or district (after the said first election), shall be held on the *First* Thursday in the month of *January* after the expiration of *Three* Years from the day of the first election of such Commissioners before the Mayor, if there shall be, within such town or district, a Mayor elected under the powers

and provisions of the statute passed in a Session of Parliament held in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the regulation of Municipal Corporations in England and Wales;" or of any Charter of Incorporation granted in pursuance of that or any subsequent Act of Parliament; and if there shall be no such Mayor within such town or district, or in the unavoidable absence of the Mayor, then such subsequent election shall be held before such county or borough Justice of the Peace, being a Commissioner for such town or district, as the said Commissioners for such town or district shall select for that purpose; and every such Mayor, county or borough Justice respectively, shall be the Returning Officer at every such election.

20. Qualification of voters at elections subsequent to the first.

And be it Enacted, That after the said first election, every male person who shall be assessed as occupier in the rate or rates made for any of the purposes of this Act existing on the *First* day of *December* immediately preceding such election, in respect of any property situate within any such town or district, and who shall have paid all arrears of such rates as shall have been demanded of him, and every male person who shall appear on such rate or rates, as the owner of any such property, shall be entitled to vote at every subsequent election of Commissioners, to be elected by the occupiers and owners of property for every such town or district; and every owner or occupier so entitled to vote shall give *One* vote, if the property in respect of which he is entitled to vote shall be assessed in such rate or rates, in a sum not exceeding *Fifty Pounds* yearly rateable value; *Two* Votes if such property shall be so assessed in a sum exceeding *Fifty Pounds* and not exceeding *Seventy-five Pounds* yearly rateable value, and so on in proportion of *One* vote for every additional *Twenty-five Pounds* of yearly rateable value; and where any such owner shall be duly assessed as occupier of any such property, he shall be entitled to vote as well in respect of his occupation, as of his being such owner: Provided always, That if any town or district shall be divided into wards for the purpose of electing Commissioners under the powers of this Act, then every such owner or occupier shall vote according to the above-mentioned scale of voting in the election of Commissioners, for the ward or wards only, in which the property in respect of which such owner or occupier is entitled to vote shall be locally situate.

21. Alphabetical list of voters to be made out by Clerk to Commissioners.

And be it Enacted, That before every election of Commissioners to be elected by the occupiers and owners of property under the provisions of this Act (except the first election), the Clerk of the Commissioners for the town or district in which such election is to take place, for the purpose of enabling the Returning Officer to take the poll more conveniently at such election, shall cause separate alphabetical lists to be made out in the forms contained in the Schedule (A.) to this Act annexed, or to the like effect, of the names of the occupiers

occupiers and owners of all property as they appear in the rate or rates made for any of the purposes of this Act existing on the *First* Day of *December* as aforesaid ; and such Clerk shall, *One* Week at least before every such election, deliver to the Returning Officer for the time being of such town or district, such lists prepared by him, and a sufficient number of copies thereof, to enable the Returning Officer to take the poll at the election ; and if such Clerk shall wilfully neglect to make out or deliver such lists as aforesaid, he shall, for every such offence, forfeit the sum of *One hundred Pounds*, to be recovered with full costs of suit in any of Her Majesty's Courts of Record at Westminster by any person who shall sue for the same by action of debt or on the case.

22. Returning officer to appoint poll clerks, &c.

And be it Enacted, That at every election of the Commissioners to be elected for any town or district by the occupiers and owners of property under the provisions of this Act, the Returning Officer for the time being shall cause to be printed a sufficient number of voting papers in blank, in the form given in the Schedule (C.) to this Act annexed, or to the like effect, for the use of the voters ; and if it shall appear to him expedient for taking the poll at such election, he may cause booths to be erected, or rooms to be hired and used as booths, for different districts of such town or district, which may be situated either in one place or in several places, and shall be so divided and allotted into compartments as to the Returning Officer shall seem most convenient ; and the Returning Officer shall appoint a clerk to take the poll at each compartment, and shall cause to be affixed on the most conspicuous part of each of the said booths, the names of the districts for which such booth is respectively allotted ; and no person shall be admitted to vote at any such election except at the booth allotted for the district wherein the property in respect of which he is entitled to vote shall be wholly or in part locally situate ; but in case no polling-place shall happen to be provided for any particular district as aforesaid, the votes of the persons voting in respect of any property situate in any district so omitted, may be taken at any of the polling-places for the ward or district in which such property is situate ; and public notice of every election, and of the situation, division and allotments of the different polling-places, and of the place or places where voting-papers may be procured by electors, shall be given *Two* Days at least before the commencement of the poll by the Returning Officer ; and in case the polling-places shall be situated in different places, the Returning Officer may appoint a sufficient number of competent persons to preside at the taking of the poll at each such polling-place, and he may also require the Clerk to the said Commissioners and any Collectors or other persons to produce the rate-books or other necessary documents in their possession : Provided nevertheless, That no election shall be holden under this Act in any church, chapel or other place of public worship.

23. Mode of voting at elections.

And be it Enacted, That at every election of Commissioners by the occupiers and owners of property, the voting shall commence at *Nine* of the clock in the forenoon, and shall finally close at *Four* of the clock in the afternoon of the same day (unless in case of riot or obstruction), and shall be conducted in manner following; (that is to say) every person entitled to vote in the election of Commissioners, may vote for any number of persons (not exceeding the number of Commissioners then to be chosen) by delivering to the presiding officer at the poll a voting paper, containing a description of his qualification as owner or occupier, in the Form contained in Schedule (B.) to this Act annexed, or to the like effect, and also the names of the persons for whom he votes; such paper being previously signed with the name of the person voting; and the Poll Clerk shall thereupon openly record such vote in the poll-book; and the voting paper shall be carefully preserved by such Presiding Officer; and the Presiding Officer shall, if he thinks fit, or if he shall be required so to do by any person entitled to vote at the said election, put to any voter, at the time of his delivering in his voting paper, the following questions, or either of them:

1. Are you the person assessed as A. B., on the [ ] rate [specifying the Rate which confers the right to vote] in respect of property described to be situated in [here specify the Street, &c., as described in the Rate.]

Or, if the Voter shall claim to vote as the Owner of Property:

Are you the person described as the Owner [or, part Owner] of the property mentioned in [ ] Rate [specifying the Rate] and described as being situated in [here specify the Street, &c., as described in the Rate.]

2. Have you already voted at the present Election? [or, if the District be divided into Wards] Have you already voted for Commissioners to be elected for this Ward at the present election?

And no person required to answer either of the said questions, shall be permitted or qualified to vote until he shall have answered the same; and if any person shall wilfully make a false answer to either of the questions aforesaid, he shall be deemed guilty of a Misdemeanor, and may be indicted and punished accordingly.

24. Joint-owners and occupiers may vote according to the proportion of their interest in any property.

And be it Enacted, That if at any election of Commissioners to be elected by the occupiers and owners of property under the provisions of this Act, Two or more persons shall be jointly rated as occupiers in any such rate or rates as aforesaid, in respect of any property, or shall be therein described as joint owners thereof, each of such occupiers

piers and owners respectively shall be entitled to vote according to the proportion and amount of his interest in such property, as occupier or owner thereof; but where one only of such joint occupiers or owners shall attend at the poll, he shall be entitled to give all the votes which may be given by such joint occupiers or joint owners respectively, as the case may be, in respect of the occupation or ownership of such property, on delivering to the presiding officer at the poll a written authority, signed by such joint occupier or joint owner, authorizing him so to vote.

25. Poll may be closed if no voting paper be tendered for one hour.

And be it Enacted, That it shall be lawful for the Returning Officer, or for any presiding officer, to close the voting or poll, at any place of voting, at any time before *Four* of the clock, in case *One* Hour shall have elapsed during which no voting paper shall have been tendered at such place of voting, any thing hereinbefore contained to the contrary thereof notwithstanding.

26. Returning officer to examine poll-books, and declare the poll.

And be it Enacted, That after the poll is closed at every election, the Returning Officer shall examine the poll-books, and, if necessary, compare the entries therein with the voting papers and written authorities so delivered as aforesaid, for the purpose of ascertaining which of the several parties voted for are elected; and so many of such persons being equal to the number of persons then to be chosen as shall have the greatest number of votes shall be deemed to be elected; and in case of an equality in the number of votes for any Two or more persons, the Returning Officer shall decide by lot which of such persons shall be elected; and the Returning Officer shall publish a list of the names of the persons so elected not later than *Two* of the clock in the afternoon of the day next but one following the day of such election, and he shall also send a notice to each person so elected, informing him of his being elected a Commissioner; and as soon as may be, after every election, a list of the Commissioners elected, signed by the Returning Officer, shall be sent by such Returning Officer to the Clerk to the Commissioners for the town or district in and for which such election has been held.

27. Voting papers to be open to inspection for Six Months.

And be it Enacted, That within *Four* Days after every election, the Returning Officer shall cause the voting papers delivered as aforesaid to be numbered in alphabetical order, and he shall deliver them, together with the poll-books and all such written authorities as shall have been delivered by joint occupiers and owners who have voted at the election, to the Clerk to the Commissioners for such town or district, and such Clerk shall keep such voting papers, poll-books and written authorities at his office, during *Six* calendar Months at least after every such election; and the Clerk to the said Commissioners

shall permit any person to inspect the same, during the said period of *Six* calendar Months, on payment of a fee of *One Shilling*.

28. Expenses of elections.

And be it Enacted, That the necessary expenses incurred by holding any election of Commissioners, for any town or district, under the provisions of this Act, shall be paid by the said Commissioners, and every Returning Officer shall be fully reimbursed by the said Commissioners all charges incurred by him in conducting the business of such election, or in anywise relating thereto; and all Presiding Officers at the poll, Poll Clerks, Churchwardens, Overseers, Assistant Overseers, Collectors of Rates, and other parochial officers, or other persons, shall be paid, by such Commissioners, a fair and reasonable remuneration for making out the alphabetical lists of voters, and for attendance at the election and other services performed having relation to such election.

29. One-third of the Commissioners elected by rate-payers and owners to go out of office every Three years.

And be it Enacted, That the Commissioners for every town or district, elected by the occupiers and owners of property under the provisions of this Act shall go out of office by rotation in manner following; that is to say, on the *First Thursday* in the month of *January*, after the expiration of *Three* Years from the day of the first election of such Commissioners, *One-third* of such Commissioners shall go out of office, and on the same day *Three* Years afterwards, *One-half* of such remaining Commissioners shall go out of office, and on the same day *Three* Years afterwards the remainder of such Commissioners shall go out of office; and on the same day in every subsequent third year, *One-third* of such Commissioners, being those who have been longest in office, shall go out of office, and in each instance the places of the Retiring Commissioners shall be supplied by the election of a similar number of Commissioners as is hereinbefore provided.

30. Manner of making the Rotation List.

AND in order to determine the rotation by which such Commissioners shall go out of office, BE it Enacted, That within *One* Week after the latest day appointed in the Order in Council for the election of Commissioners under the provisions of this Act for any town or district, the Commissioners for such town or district shall meet at some convenient place for the purpose of forming a rotation list of the Commissioners, and at such meeting the Clerk to such Commisioners, or some person to be then appointed for that purpose by the Commissioners, shall write the names of all the Commissioners elected by the occupiers and owners of property, on separate slips of paper, all as nearly as may be of equal size, and having folded them up in the same manner, he shall put them into a balloting-box or other convenient similar place, and shall draw out such slips of paper in succession,

succession, and the names upon the slips so drawn shall be inserted by such Clerk or other person in a list, in the order in which they shall be so drawn, and such list shall be kept by the Clerk among the papers of the Commissioners, and the names in such list shall be numbered consecutively, and such Commissioners shall retire from office in the order in which their names appear on such list, according to the proportion hereinbefore mentioned.

31. Commissioners to be elected by Town Council.

And be it Enacted, That if there shall be within the limits of any town or district made subject to this Act by any Order in Council a corporate borough, under the powers and provisions of the said Statute passed in a Session of Parliament held in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or of any Charter of Incorporation granted in pursuance of that or any subsequent Act of Parliament, then in addition to the Commissioners so to be elected by the occupiers and owners of property, as hereinbefore mentioned, there shall be elected by the Council of every such borough, in manner hereinafter provided, a certain number of the Aldermen and Councillors of such borough, as Commissioners for the purposes of this Act for such town or district, (that is to say), *Two* Aldermen if the number of Aldermen apportioned to such borough by the Schedules (A.) or (B.) annexed to the said Statute, or by such Charter of Incorporation, shall not be more than *Six*; *Three* Aldermen if the number of Aldermen apportioned to such borough by the said Schedules or Charter, shall be more than *Six* and not more than *Ten*; *Four* Aldermen if the number of Aldermen so apportioned to such borough shall be more than *Ten*, and not more than *Fourteen*; and *Five* Aldermen if the number of Aldermen so apportioned to such borough shall amount to *Sixteen*; and also *Four* Councillors, if the number of Councillors so apportioned to such borough shall amount to *Twelve*; *Six* Councillors if the number of Councillors so apportioned to such borough shall amount to *Eighteen*; and so on, at the proportion of *Two* additional Councillors for every *Six* additional Councillors so apportioned to such borough; and in every such town or district the Mayor for the time being of such corporate borough shall be, ex-officio, a Commissioner for the purposes of this Act: Provided nevertheless, That such Mayor may, if duly qualified, be elected a a Commissioner under any of the provisions contained in this Act.

32. Mode of electing Commissioners by Town Council.

And be it Enacted, That the first election of Aldermen and Councillors as Commissioners for every such town or district shall take place on such day as shall be appointed in the Order in Council, to be issued as aforesaid; and every future election on the *Second Thurs-*

day in the month of *January* after the expiration of *Three* Years from the day of the then last election; and the Clerk to the Commissioners shall, *Fourteen* Days at least before the day hereby appointed for holding every such election (except the first election), send or deliver to the Town Clerk of the borough, a notice in writing, requiring him to summon a meeting of the Town Council, for the purpose of electing Commissioners under this Act; and *Five* clear Days at least before the day hereby appointed for holding every such election, the Town Clerk shall send, by post or otherwise, to every member of the Council of such borough, a notice, specifying the time and place of meeting, to elect Aldermen and Councillors as Commissioners under this Act; and at such meeting the Aldermen and Councillors shall be elected Commissioners in pursuance of the provisions of this Act; and the business of such meeting shall be conducted in all respects as ordinary meetings of the Council are conducted, in pursuance of the said Statute passed in a Session of Parliament held in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales;" and every such Alderman and Councillor when elected, shall continue in office as such Commissioner, whether he continues to be a member of the Town Council during that period or not, for the space of *Three* Years, or until the next election of Aldermen and Councillors, as Commissioners for such town or district shall have been duly held under the provisions of this Act; and every Alderman or Councillor elected as aforesaid shall, on going out of office, be eligible to be re-elected as a Commissioner by the said Council, if at the time of such re-election he shall be a member of the Town Council, and otherwise qualified to be a Commissioner.

33. Commissioners to be elected by Borough Justices.

And be it Enacted, That if there shall be within the limits of any town or district made subject to this Act by an Order in Council, such corporate borough as aforesaid having a Commission of the Peace, then in addition to the Commissioners to be elected by the occupiers and owners of property and the Councillors of such corporate borough, there shall be selected by the Justices in the Commission of the Peace, and acting for such corporate borough, a certain number of their body as Commissioners for the purposes of this Act, that is to say, *Two* Justices for every such town or district, in which the number of inhabitants specified in such Order in Council shall not exceed *Ten thousand*, *Four* Justices for every such town or district in which the number of inhabitants so specified shall be more than *Ten thousand*, and shall not exceed *Thirty thousand*, and *Six* Justices whenever the number of inhabitants so specified shall exceed *Thirty thousand*.

And

34. Notices to Borough Justices to be given by Town Clerk.

And be it Enacted, That the first election of Borough Justices as Commissioners for any such town or district as last aforesaid, shall take place at a meeting of the Justices of such borough, duly convened at some convenient place, in such town or district, on such day as shall be appointed in the Order in Council to be issued as aforesaid; and every future election at a like meeting of such Justices duly convened on the *Second Thursday* in the month of *January* after the expiration of *Nine* Years from the day of the then last election; and the Town Clerk of every such borough shall, *Five* clear days before every day hereby appointed for such election, send, by post or otherwise, to every Justice of such borough, a notice, specifying the time and place of meeting to elect Justices as Commissioners under this Act; and at such meeting the proper number of borough Justices shall be elected as Commissioners in pursuance of the provisions of this Act; and every such Justice so elected shall continue in office as such Commissioner for the space of *Nine* years, or until the next election of borough Justices as Commissioners for such town or district shall have been duly held under the provisions of this Act: Provided always, that every such Justice shall, on going out of office, be eligible to be re-elected a Commissioner, if he shall be qualified to be re-elected.

35. Commissioners to be elected by County Justices.

And be it Enacted, That if there shall not be within the limits of any town or district made subject to this Act by an Order in Council, any such corporate borough as aforesaid, then, in addition to the Commissioners so to be elected by the occupiers and owners of property as hereinbefore mentioned, there shall be elected by the Justices in the Commission of the Peace, and acting for the division or divisions of the county within which such town or district, or any part thereof, shall be situate, out of their body, a certain number of Commissioners for the purposes of this Act, (that is to say) *Two* Justices for ever such town or district in which the number of inhabitants specified in such Order in Council shall not exceed *Ten thousand*; *Four* Justices for every such town or district in which the number of inhabitants so specified shall be more than *Ten thousand*, and shall not exced *Thirty thousand*; and *Six* Justices whenever the number of inhabitants so specified, shall exceed *Thirty thousand.*

36. Notices to County Justices to be given by Clerk to Commissioners.

And be it Enacted, That the first election of County Justices to act as Commissioners for any such town or district, shall take place at a meeting of the Justices of such division or divisions as aforesaid, to be convened at some convenient place in such town or district, on such day as shall be appointed in the Order in Council to be issued as aforesaid; and every future election at a like meeting of such Justices duly convened on the *Second Thursday* in the month of *January*, after the

expiration of *Nine* Years from the day of the then last election; and the Returning Officer appointed in the Order of Council to hold the first election of Commissioners under this Act, shall, *Five* clear Days before the day appointed by such order for the first election of such county Justices as Commissioners, and the Clerk to the Commissioners for such town or district, shall, *Five* clear Days before every day hereby appointed for every subsequent election of such Commissioners, send by post or otherwise to every Justice of such division or divisions, a notice, specifying the time and place of such meeting, to elect such Justices as Commissioners under this Act; and at such meeting the proper number of Justices shall be elected Justices in pursuance of the provisions of this Act; and every such county Justice so elected shall continue in office as such Commissioner for the space of *Nine* Years, if he shall so long continue qualified to be a Commissioner, or until the next election of county Justices as Commissioners for such town or district shall have been duly held under the provisions of this Act: Provided always, That every such county Justice shall, on going out of office, be eligible to be re-elected a Commissioner, if he shall be qualified to be re-elected.

37. Commissioners to be elected by Trustees of Local Acts.

And be it Enacted, That if at the time when any Order in Council is issued for making any town or district subject to the provisions of this Act, there shall exist in such town or district any body of Trustees acting under the powers of any local Act of Parliament, and which powers shall, under the provisions hereinafter contained, be transferred to the Commissioners under this Act, or be altogether superseded, then there shall be elected by such Trustees, out of their body at a special meeting to be duly convened for that purpose, at a time to be named in the said Order in Council, in addition to the Commissioners to be elected as hereinbefore mentioned, a certain number of such Trustees as Commissioners for the purposes of this Act in such town or district, (that is to say) *Six* such Trustees for every town or district in which the number of inhabitants shall not exceed *Ten thousand*; *Eight* such Trustees for every town or district in which the number of inhabitants shall be more than *Ten thousand*, and shall not exceed *Twenty thousand*; and so on at the proportion of *Two* additional Trustees for every additional *Ten thousand* inhabitants: Provided always, That in no case shall the number of Commissioners so to be elected by such Trustees exceed *Eighteen*; and every such Trustee so elected as aforesaid, shall continue a Commissioner for the purposes of this Act during the term of his natural life, unless in the meantime he shall be disqualified under the provisions of this Act from continuing to be a Commissioner: Provided always, That if in any such town or district there shall exist Two or more bodies of such trustees as aforesaid, then and in every such case, each of such bodies shall elect, from their own members respectively, such a proportion of the whole number of Trustees

Trustees to be elected as Commissioners as aforesaid as shall be directed and specified in the said Order in Council relating to such town or district.

38. Clerk to Trustees to notify election to Returning Officer.

And be it Enacted, That the Clerk or other like officer for the time being to every such body of Trustees, shall within *Two* Days after every such election of Trustees as Commissioners under this Act, send to the Returning Officer appointed by the Order in Council to take the poll at the election of Commissioners by the occupiers and owners of property, a list signed by such Clerk of the Trustees so elected Commissioners for the purposes of this Act.

39. In case a Commissioner is elected for two wards, &c., party so elected must select.

And be it Enacted, That if any person shall be elected a Commissioner for any town or district in more than one ward, or by more than one body of persons hereby empowered to elect or select Commissioners, then and in every such case such person shall at the first meeting of the Commissioners which he shall attend, declare which of the qualifications to be a Commissioner he is desirous of accepting; and such person shall thereupon be held to be appointed in respect of the qualification which he shall so accept, and shall cease to be a Commissioner under any other qualification or election.

40. If no appointment takes place on the day fixed, the same may be adjourned to a subsequent day.

And be it Enacted, That if at any time, from any cause, no appointment of Commissioners shall take place on any day hereinbefore mentioned for appointing Commissioners, then and in every such case the time for making such appointment shall stand adjourned, until the same day of the following week; and the appointment to be made in pursuance of such adjournment shall be as good and effectual, to all intents and purposes, as if the same had been duly made and completed on the day first appointed: Provided always, That in every such case the Returning Officer, Town Clerk, or other person who is by this Act required to give notice of such election or meeting, shall give at least *Three* clear Days' notice of every such adjournment to all parties interested therein, by public advertisement or otherwise.

41. Elections not to be void for want of title of presiding officer.

And be it Enacted, That no election of Commissioners under this Act shall be liable to be questioned by reason of any defect in the title, or want of title of the person by or before whom such elections shall have been held, or shall have been convened, provided that the persons before whom such election shall have been held or convened shall be in the actual possession of, or acting in the office giving the right to preside at such election, or to convene the meeting for the same: Provided, nevertheless, That nothing hereinbefore contained shall prevent any such election or act done by any person from being

 questioned

questioned and set aside by reason of any fraud or of any irregularity or defects, other than those hereinbefore specified.

42. Qualification of Commissioners.

And be it Enacted, That every Commissioner under this Act shall be a male inhabitant of the town or district for which he shall be Commissioner, or resident within *Seven* Miles thereof; and every such Commissioner (except the said Mayor, County and Borough Justices, Aldermen, Councillors and Trustees of local Acts, to be elected Commissioners as aforesaid) if the town or district shall contain a population of less than *Ten thousand* inhabitants, shall at the first election of Commissioners be rated to the relief of the poor, and at every subsequent election shall be rated in some rate or rates made for the purposes of this Act in respect of property situate within the said town or district, in a sum not less than *Twenty Pounds* rateable yearly value, or shall be, in his own right, or in the right of his wife, the owner of property rated to that amount in such rates respectively as aforesaid made in such town or district, and be possessed of real or personal estate of not less than *One thousand Pounds* value beyond what will satisfy all his debts; and if the said town or district shall contain a population of more than *Ten thousand* Inhabitants, then he shall be rated in like manner in a sum not less than *Thirty Pounds* rateable yearly value, or shall be, in his own right or in the right of his wife, the owner of property in like manner rated to that amount, and be possessed of real or personal estate of not less than *Two thousand Pounds* value beyond what will satisfy all his debts.

43. Joint-owners or occupiers, when qualified as Commissioners.

And be it Enacted, That where two or more persons shall be jointly rated in respect of any such property as aforesaid, each of such persons shall, subject to the provisions hereinbefore contained, be eligible to be chosen such Commissioner as aforesaid, provided such persons shall be rated, in respect of such property, upon a rateable yearly value, which, when divided by the number of persons so rated, shall give to each a sufficient rateable yearly value, according to the provisions herein before contained.

44. How distance is to be measured.

And be it Enacted, That with respect to the mode of measuring the distance of *Seven* Miles, within which the said Commissioners are required to reside, the same shall be measured in a straight line on a horizontal plane from the point from which such distance is to be measured: Provided always, That in cases where there shall be a map of any town or district, and of the country surrounding the same sufficient in extent, drawn and published under the authority and direction of the principal officers of Her Majesty's Ordnance, such distance may be measured and determined by the said map.

And

45. Declaration as to qualification.

And be it Enacted, That no person elected by the occupiers and owners of property as hereinbefore provided, shall be capable of acting as a Commissioner for any town or district, until he shall have made and signed, before Two or more of the Commissioners of such town or district, a Declaration to the following effect:

"I, A. B., do solemnly declare, that I will faithfully and impartially, according to the best of my skill and judgment execute all the powers and authorities reposed in me as a Commissioner, by virtue of an Act of Parliament, intituled, [here insert the title of this Act] and also that I am an inhabitant of [here insert the name of the town or district], or resident within *Seven* Miles thereof, and am duly rated for property within this town or district, in a sum not less than [here insert the sum] rateable annual value," or "am owner in my own right [or in right of my wife] of property within this town or district duly rated in a sum not less than [here insert the sum] rateable annual value, and am possessed of real or personal estate to the amount or value of [here insert the sum] beyond what will satisfy my debts."

Declaration by Mayor, Councillors, Justices, &c. as to qualification.

And no Mayor, Alderman, Councillor, County or Borough Justice, or Trustee of any local Act, who shall become a Commissioner for the purposes of this Act, shall be capable of acting as a Commissioner for any town or district until he shall have made and signed before *Two* or more of the Commissioners of such town or district a declaration to the following effect:

"I, A. B., do solemnly declare, that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities reposed in me as a Commissioner, by virtue of an Act of Parliament, intituled [here insert the title of this Act],and also that I am an inhabitant of [here insert the name of the town or district], or resident within *Seven* Miles thereof."

46. Declaration to be taken at first meeting.

And be it Enacted, That at the meeting of Commissioners for any town or district at which any person shall first attend as one of such Commissioners, such person shall make and subscribe the declaration herein required, and it shall be lawful for any persons attending as such Commissioners, whether they shall themselves have made such declaration or not, to administer such declaration.

47. If false declaration be made, parties guilty of a Misdemeanor.

And be it Enacted, That any person who shall falsely or corruptly make and subscribe any declaration authorized or required by this Act to be made and subscribed, knowing the same to be untrue in any particular, shall be deemed guilty of a Misdemeanor, and shall be punished accordingly.

48. Penalty on acting as a Commissioner not being duly qualified.

And be it Enacted, That if any person shall act as a Commissioner, being incapacitated to act, or not being duly qualified, or before he shall have made or subscribed such declaration as aforesaid, or after having become disqualified, he shall for every such offence forfeit the sum of *Fifty Pounds*, and such penalty may be recovered, with full costs of suit, in any of Her Majesty's Courts of Record at Westminster, by any person who shall sue for the same by action of debt; and in every action for the recovery of such penalty, the person so sued shall prove, as the case may be, that he was qualified, and had made and subscribed the declaration aforesaid, and in default thereof the plaintiff shall be entitled to a verdict, and judgment for the said penalty and costs, without any other proof or evidence on the part of the plaintiff than that such person had acted as a Commissioner in the execution of this Act: Provided nevertheless, That all acts and proceedings of any person acting as a Commissioner being incapacitated, not duly qualified, or being disqualified, done previously to the recovery of the penalty, shall be as valid as if such person had been duly qualified.

49. No bankrupt, insolvent or unqualified person to be a Commissioner.

And be it Enacted, That no bankrupt or insolvent, or person not qualified as hereinbefore mentioned, shall be capable of being or continuing a Commissioner under this Act.

50. No person holding office, or concerned in any contract, to be a Commissioner.

And be it Enacted, That if at any time subsequent to the election or appointment of any Commissioner, he shall accept or continue to hold any office or place of profit under the Commissioners to be appointed for the purposes of this Act, or be concerned in any contract, or participate in any manner in any work to be done under the authority of this Act, or shall derive or be entitled to any benefit either directly or indirectly therefrom, such person shall cease to be a Commissioner, and his office shall thereupon become vacant: Provided always, That no person being a shareholder or member of any Company or concern engaged in the manufacture or supply of gas, or in the supply of water, shall be disqualified from acting as a Commissioner by reason of any contract entered into between such Company or concern and the Commissioners; nevertheless it shall not be lawful for any such shareholder or member to act as a Commissioner in any matter relating to any contract entered into between the Commissioners and such Company or concern.

And

51. Commissioners not disqualified from acting as Justices.

And be it Enacted, That no person shall be incapable of acting as a Justice of the Peace in any matter relating to the execution of this Act, or relating to the execution of any local Act, the powers whereof are hereby transferred to Commissioners under this Act, any thing in any such local Act contained to the contrary thereof notwithstanding.

52. Commissioners eligible to be re-elected.

And be it Enacted, That every Commissioner going out of office may, if duly qualified, be re-elected, and after such re-election he shall, with reference to going out of office periodically, be considered a new Commissioner.

53. Commissioners neglecting to act.

And be it Enacted, That if any Commissioner elected or appointed under any of the powers in this Act contained shall neglect, for the space of *Six* Months, to make and subscribe the declaration hereinbefore required, or shall neglect for *Six* Months in succession to attend the meetings of the said Commissioners, and act in the execution of this Act, such Commissioner shall be deemed to have refused to act, and shall cease to be a Commissioner, unless he shall be duly re-elected a Commissioner.

54. Mode of filling up occasional vacancies.

And be it Enacted, That if any Commissioner elected under this Act by the occupiers and owners of property or selected by the county or borough Justices, or Town Council respectively, shall die or resign or be disqualified, or cease to be a Commissioner from any other cause than that of going out of office by effluction of time, then it shall be lawful for the Commissioners of every town or district, and they are hereby required, to elect another Commissioner, out of the persons possessing the necessary qualifications, to fill his place, and every Commissioner so elected shall continue in office for such period of time only as the person, in whose place he shall be appointed, would have been entitled to continue in office.

55. First and other meetings of Commissioners.

And be it Enacted, That the said Commissioners shall hold their first meeting at some convenient place within the limits of the town or district for which they shall have been elected, on the *Second* Monday next after the last day fixed for the election or appointment of any of the said Commissioners, at the hour of *Eleven* of the clock in the forenoon, and proceed to put this Act into execution; and it shall be lawful for the Commissioners present at such first or any subsequent meeting, from time to time to adjourn such meeting to the same or any other place within such town or district; and if at any such meeting, there shall not be *Five* Commissioners present within *One* Hour after the time appointed for such meeting, then it shall be lawful for the Commissioners present or the major part of them, or any *One* Commissioner if only *One* be present, to adjourn such meeting till another

day, and if no Commissioner shall be present, it shall be lawful for their Clerk to adjourn such meeting to the same or any other place within the said town or district.

56. Annual and Quarterly meetings to be held.

And be it Enacted, That the said Commissioners shall, after the said First meeting, hold an annual meeting in the month of February in each year and four quarterly meetings, for the transaction of general business, and no notice need be given of the business to be transacted at such annual or quarterly meetings, and the said quarterly meetings shall be holden on such days and at such place, within such town or district as the said Commissioners shall from time to time appoint.

57. Weekly meetings may be held.

And be it Enacted, That besides the said Four quarterly meetings, weekly or monthly meetings of the said Commissioners may be held for the purposes of this Act, for ordering payment of the salaries of the inferior servants, for inquiring into their conduct, and for reprimanding or dismissing such of them as may have acted improperly, for inquiring into the conduct of the contractors or other persons employed to execute any works, for receiving reports from their surveyor on the state and progress of any works in which the said Commissioners may be interested, and for other similar purposes, and for giving directions as to the cleansing and repairing sewers and drains, and the keeping in proper order the streets, and other places under their charge, and for superintending the supply of water, and in general all other matters and things intrusted to them, which weekly or monthly meetings are to be held upon any day which may be from time to time fixed at the quarterly meetings of the said Commissioners, and upon any such day being fixed, the Commissioners for the time being are required to attend without any notice.

58. No extraordinary business at weekly meetings unless notice be given.

And be it Enacted, That no new rules or regulations are to be adopted, nor extraordinary business discussed at the weekly or monthly meetings, unless due notice thereof has been given at a prior meeting, and the subject of such business notified to each Commissioner, by means of written or printed notices delivered or left in the same manner as is required for special meetings.

59. Special meetings.

And be it Enacted, That it shall be lawful for the said Commissioners to hold special meetings, and any *Five* or more of the Commissioners may require a special meeting to be held, but no such meeting shall be held unless Three days' notice thereof, at the least, shall be given.

60. How notices of meetings of Commis-

And be it Enacted, That all notices of any special meeting of the said Commissioners, to be held under the authority of this Act, shall be

be in writing or printed, and shall be delivered or sent by the Clerk to the said Commissioners by the post or otherwise to the usual place of abode or place of business of each of the said Commissioners, *Three* Days at least previous to such meeting; and every notice shall specify the time and place of meeting, and, in case of a special meeting, shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in the notice thereof. sioners are to be given.

61. Quorum of Commissioners.

And be it Enacted, That all powers vested in the Commissioners under this Act may be exercised by any *Five* or more of the said Commissioners present at any meeting holden in pursuance of this Act; and no business shall be transacted at any meeting of the said Commissioners unless *Five* or more Commissioners shall be present at such meeting.

62. Expenses of meetings.

And be it Enacted, That at all meetings of the Commissioners they shall defray their own expenses, except for the use of the room in which the meeting is held, and books, stationery and fire.

63. Commissioners to provide daily attendance at an office.

And be it Enacted, That the said Commissioners shall take care that their Clerk, or some person duly authorized by them in that behalf, shall attend at their office daily, Sundays, Christmas-day, and Good Friday only excepted, for the purpose of receiving notices and transacting the ordinary business of the Commissioners; and due notice of the place of the office of the Commissioners, and of the hours during which attendance is given there, shall be published by the Commissioners within the limits of their jurisdiction, in such manner that the same may be fully and generally known.

64. Committees may be appointed at special meetings.

And be it Enacted, That it shall be lawful for the said Commissioners, at any special meeting, to appoint a Committee or Committees, for any purposes which, in the discretion of the said Commissioners, would be better regulated and managed by means of such Committee, and at any special meeting to continue, alter or discontinue such Committee: Provided always, That the acts of every such Committee shall be submitted to the said Commissioners for their approval.

65. Quorum of Committee.

And be it Enacted, That no business shall be transacted at any meeting of the Committee, unless *Three* members of the Committee are present.

66. Order of business at meetings of Commissioners and Committees.

And be it Enacted, That at every meeting of the said Commissioners, the Mayor of the said town for the time being shall be the Chairman of such meeting, or if no such officer shall exist, then the said Commissioners shall, by the majority of the votes of the said

Commissioners present, at their first meeting, elect one of their body to be their Chairman for the year ensuing; and afterwards, at the annual meeting in each year, they shall, in like manner, elect a Chairman for the ensuing year; and in case of the absence of such Mayor or Chairman at any meeting, then one of the Commissioners shall be elected Chairman, by the majority of the votes of the Commissioners present at such meeting; and all questions considered at any such meeting shall be decided by the votes of the majority present, and if there be an equal division of votes, the Chairman, in addition to his own vote as a Commissioner or member of the Committee, shall have a casting vote: Provided always, That if at any such meeting there shall be an equality of votes in the election of the Chairman, then the Commissioner whose surname would stand first, if the surnames of the Commissioners having an equal number of votes were alphabetically arranged, shall be Chairman of such meeting.

67. No resolution of Commissioners to be revoked at a subsequent meeting, unless under certain circumstances.

And be it Enacted, That no resolution or other act at any meeting shall be revoked or altered at any subsequent meeting, unless such subsequent meeting be called expressly for such alteration or revocation, by notice given by the Clerk to the Commissioners *Fourteen* Days' at least previous to the holding thereof, nor unless such revocation or alteration be determined upon by a majority consisting of *Two-thirds* of the Commissioners present at such subsequent meeting, if the number of Commissioners present at such subsequent meeting be not greater than the number present when such resolution was made or such act was done, or if the number of Commissioners present at such subsequent meeting be greater than the number present at such former meeting, then by a majority.

68. Commissioners may make contracts.

And be it Enacted, That it shall be lawful for the said Commissioners to enter into contracts with any person or persons for the execution of any works directed or authorized by this Act to be done by the said Commissioners, or for furnishing materials, or for any other matters or things whatsoever, necessary for the purposes of this Act: and every such contract shall be in writing, and shall specify the several works to be done, and the materials to be furnished, and the prices to be paid for the same, and the time or times within which the said works are to be completed, and the penalties to be suffered in case of non-performance thereof, and shall be under the common seal of the said Commissioners, and shall also be duly executed by the person or persons contracting to perform such work or works respectively; and such contract shall be binding on the said Commissioners, and actions and suits may be maintained thereon, and damages and costs recovered by or against the said Commissioners, or the other parties failing in the execution thereof; and a copy of every such contract

contract shall be entered in a book to be kept by the Clerk to the Commissioners for that purpose: Provided always, That before any such works shall be begun or any contract finally made for executing the same, the plan of such works, together with the estimates of the expense of completing the same, shall be submitted by the Commissioners to the Inspector, and shall have been approved of by him: Provided also, That before any such contract, to the amount of *Fifty* Pounds or upwards, shall be entered into, *Ten* Days' notice, at the least, shall be given in some one of the newspapers circulating within such town or district, expressing the purpose of such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the said Commissioners, at a certain time and place in such notice to be mentioned, and the said Commissioners shall and they are hereby required to take security for the due and faithful performance of such contracts.

Plans and estimates to be submitted to Inspector for approval.

Notice of contracts.

69. How indictments to be preferred.

And be it Enacted, That it shall be lawful for the said Commissioners to sue and be sued, to prefer any bill of indictment or information, or take any other proceeding against any person who shall steal, take or carry away, wilfully deface or injure, any property, article or thing belonging to the said Commissioners, and in every such case it shall be sufficient to state, generally, the property, article, or thing, in respect of which such proceeding shall have been taken to be the property of the Commissioners by their corporate name.

70. Service of notice on Commissioners.

And be it Enacted, That any summons notice, or writ, or other proceeding at law or in equity, required to be served upon the said Commissioners, may lawfully be served by delivering the same personally to the clerk of the said Commissioners, or by leaving the same at the office of the said Commissioners.

71. Authentication of notices.

And be it Enacted, That every summons, demand, or notice, or other like document given under the provisions of this Act, may be in writing or print, or partly in writing or print, and shall be sufficiently authenticated, if signed by one Commissioner, or by the clerk of the said Commissioners, and need not be sealed by the common seal.

72. Proceedings to be entered in a book and to be open for inspection, and to be evidence.

And be it Enacted, That the said Commissioners shall cause notes, minutes, or copies, as the case may require, of all appointments made or contracts entered into by them, and of the orders and proceedings at all meetings of the Commissioners and of the Committees, to be duly entered in books to be from time to time provided for the purpose, which shall be kept under the superintendence of the Commissioners;

sioners; and every such entry shall be signed by the chairman of such meeting; and such entry, so signed, shall be received as evidence in all courts, and before all Judges, Justices and others without proof of such respective meetings having been duly convened or held, or of the persons making or entering such orders or proceedings being Commissioners or members of Committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed, until the contrary is proved, and all such books shall at all reasonable times be open to the inspection of the Commissioners, and of any mortgagees of the rates or other property of the said Commissioners.

73. Commissioners to appoint a local Surveyor.

And be it Enacted, That the said Commissioners shall, and they are hereby authorized and required to appoint, subject to approval by One of Her Majesty's Principal Secretaries of State, and with such salary as shall be approved of by him, to be paid by the said Commissioners, a person duly qualified as a civil engineer, to act as a local surveyor of the drainage and other works authorized under the provisions of this Act; and if any such surveyor shall die, resign or be removed, the said Commissioners shall, with the like approval, appoint another person so duly qualified in the room of the surveyor so dying, resigning, or being removed: Provided always, That it shall not be lawful for the said Commissioners to remove such surveyor, without the consent of One of Her Majesty's Principal Secretaries of State.

74. Commissioners to appoint Clerk and other officers.

And be it Enacted, That the said Commissioners shall from time to time appoint and employ a treasurer, a clerk or clerks, a collector or collectors of the rates or assessments hereinafter mentioned, and of any other monies to be paid under or by virtue of this Act, and all such other officers and persons to assist in the execution of this Act, as the said Commissioners shall think necessary and proper, and may from time to time remove such treasurer, clerks, collectors, and other officers and persons, and appoint others in the room of such as shall be so removed, or as may die, resign or discontinue their offices; and out of the monies to be raised for the purposes of this Act, shall pay such salaries, wages and allowances to the said officers and persons respectively as the said Commissioners shall think reasonable.

75. Offices of Clerk and Treasurer to be separate.

And be it Enacted, That neither the person who shall hold the office of clerk, nor the partner of such clerk, nor any person in the service or employ of such clerk, or of his partner, shall be eligible to be treasurer; and that neither the person who shall be the treasurer, nor the partner of such treasurer, nor any person in the service or employ

employ of such treasurer, or of his partner, shall be eligible to be the clerk; and if any person offend in any of the following cases, he shall forfeit *One hundred* Pounds; (that is to say)

If any person accept both the office of clerk and treasurer:

If any person, being the clerk or the partner of such clerk, or in the service or employ of such clerk or of his partner, accept the office of treasurer, or act as deputy of the treasurer, or in any manner officiate for the treasurer:

If any person, being the treasurer or the partner of such treasurer, or in service or employ of such treasurer or of his partner, accept the office of clerk, or act as deputy of such clerk, or in any manner officiate for such clerk:

If any such clerk or treasurer shall hold any place of profit or trust under the said Commissioners, other than that of clerk or treasurer, as the case may be:

And any person may sue for such penalty, either by action of debt or on the case, in any of Her Majesty's Superior Courts of Record, and shall, on recovery thereof, be entitled to full costs of suit.

76. Officer taking fees to lose his office and forfeit £.50.

And be it Enacted, That if any such treasurer, clerk, surveyor, collector, or other officer, employed by the said Commissioners, shall exact take, or accept, on account of any thing done by virtue of his office, or in relation to the functions of the said Commissioners, any fee or reward whatsoever, other than the salary, rewards, or allowances allowed or sanctioned by the said Commissioners, or be in anywise concerned or interested in any bargain or contract made by the said Commissioners, he shall be incapable of being afterwards employed by the said Commissioners, and he shall forfeit *Fifty Pounds*, and any person may sue for such penalty, either by action of debt or on the case, in any of Her Majesty's Superior Courts of Record, and shall, on recovery thereof, be entitled to full costs of suit.

77. Commissioners to take security from all officers entrusted with money.

And be it Enacted, That before any person entrusted with the custody and control of monies, whether treasurer, collector or other officer of the Commissioners, shall enter upon his office, the said Commissioners shall take sufficient security from him for the faithful execution of his office.

78. Officers to account.

And be it Enacted, That every officer appointed or employed by the said Commissioners, by virtue of this Act, shall, from time to time, when required by the said Commissioners, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all monies received by him

on behalf of the said Commissioners; and such account shall state how, and to whom, and for what purpose such monies have been disposed of: and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the said Commissioners, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

79. Summary recovery against parties failing to account.

And be it Enacted, That if any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for *Five* Days after being thereunto required he fail to deliver up to the said Commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters and things, in his possession or power, relating to the execution of this Act, or belonging to the said Commissioners, then, on complaint thereof being made to a Justice, such Justice shall summons such officer to appear before *Two* or more Justices at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or in his absence upon proof that such summons was personally served upon him, or left at his last known place of abode, such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer or upon evidence, or upon inspection of the account, that any monies of the said Commissioners are in the hands of such officer, or owing by him to the said Commissioners, such Justices may order such officer to pay the same; and if he fail to pay the amount, it shall be lawful for such Justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding *Three* Months unless the same be sooner paid.

80. Officers refusing to deliver up documents, &c., to be imprisoned.

And be it Enacted, That if any such officer refuse to make out such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers or writings, property, effects, matters or things in his possession or power, belonging to the said Commissioners, such Justices may lawfully commit such offender to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power, relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters and things, if any, in his possession or power, belonging to the said Commissioners.

81. Where officer about to abscond, a warrant may be issued in the first instance.

Provided always, and be it Enacted, That if any Commissioner or other person acting on behalf of the said Commissioners shall make oath that he has good reason to believe, upon grounds to be stated in his

his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the Justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for bringing such officer before such Two Justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than *Twenty-four* Hours, without bringing him before some Justice; and it shall be lawful for the Justice before whom such officer may be brought either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before Two Justices, at a time and place to be named in such order, unless such officer give bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the said Commissioners.

82. Commitment not to discharge sureties.

And be it Enacted, That no such proceeding against or dealing with any such officer as aforesaid, shall deprive the Commissioners of any remedy which they might otherwise have against any surety of such officer.

83. Commissioners may make bye-laws to govern themselves and their servants.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, to make such bye-laws, for regulating the carrying on of their business and the business of their committees, and for the government of the officers, servants or other persons in their employ, as they shall think fit, and to repeal or alter any such bye-laws as they shall think fit, so that no such bye-law be contrary to the laws of England or the provisions of this Act, and so as the same be reduced into writing, with the common seal of the said Commissioners affixed thereto, and approved of by the said Inspector, signified in writing under his hand.

84. Fines for breach of such bye-laws.

And be it Enacted, That it shall be lawful for the said Commissioners, by such bye-laws, to impose such reasonable forfeitures and fines upon their officers and servants, and other persons in their employ offending against the same, as they shall think fit, not exceeding *Five Pounds* for each offence: Provided always, That such bye-law shall be so framed as to allow the Justices, before whom any penalty imposed thereby may be sought to be recovered, to order the whole or a part only of such penalty to be paid.

85. Accounts to be kept of receipts and disbursements, which shall be open to inspection.

And be it Enacted, That the said Commissioners shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall, at all seasonable times, be open to the inspection of the said Commissioners and the said Inspector, or other mortgagee or any other creditor of the said Commissioners

missioners, without fee or reward; and the said Commissioners and persons aforesaid, or any of them, may take copies of or extracts from the said books without paying any thing for the same; and any clerk, or other person having the custody of the said books, who shall not, on any reasonable demand, permit any of the said Commissioners, mortgagees or creditors as aforesaid, to inspect the said books, or to take such copies or extracts as aforesaid, shall forfeit and pay for every such offence a sum not exceeding *Five Pounds*.

86. Accounts to be examined and settled at the annual meeting.

And be it Enacted, That the accounts of the monies received and expended by the said Commissioners, together with an abstract of the same, shall be produced at the annual meeting to be held at such time and place as shall be fixed by the said Commissioners; and the accounts shall be examined and settled by the Commissioners, and if the same shall be found just and true, they shall be allowed by the Commissioners, and certified accordingly, under the hand of the chairman of such meeting; and after such accounts shall have been so allowed and signed by such chairman, and by the auditor, as hereinafter provided, the same shall be final in regard to all persons whomsoever.

87. Statement of accounts to be prepared and to be open for inspection.

Provided always, and be it Enacted, that *Ten* Days at the least previously to such examination and settlement as aforesaid, the said Commissioners shall cause a full and true statement and account to be drawn out of the amount of all rates or assessments made, and of all contracts entered into, and of all monies received and expended by virtue of this Act during the preceding year, and also of all debts then owing by the said Commissioners; and they shall allow such statement and account to remain for inspection at the office of the said Commissioners; and every creditor on the rates and assessments by this Act authorized to be made, and every person paying any such rate or assessment, or any person acting on behalf of any such creditor or rate-payer, may, at all seasonable times, inspect such statement and account; and the said statement and account shall be printed, and the Clerk shall, on demand, furnish a copy thereof to every such creditor and ratepayer without fee; and *Fourteen* Days at the least previously to the meeting for examining and settling such account, the said Commissioners shall give public notice of such intended meeting, stating in such notice that the said statement and account are at the office of the said Commissioners, ready for the inspection of the creditors, or rate-payers, or other parties interested.

88. Appointment and payment of auditor.

AND whereas it is expedient that Auditors of Accounts, in nowise, directly or indirectly, under the influence or control of the said Commissioners, should be appointed: BE it therefore Enacted, That One of Her Majesty's Principal Secretaries of State for the time being, shall appoint

appoint a fit person or persons to examine and audit, once in each year, at the least, at such time, in such form, and in such manner, as such Secretary shall direct, the accounts of the receipt and expenditure of such Commissioners, and to report to such Secretary of State thereon as he shall direct; and such Secretary of State may determine the amount of a reasonable remuneration to be paid to every such Auditor, and make an order under his hand on such Commissioners for the payment of the amount thereof; and the said Commissioners shall forthwith make an order on the Treasurer of the said Commissioners for the payment of the same.

89. Auditor to examine accounts.

And be it Enacted, That every Auditor so nominated and appointed as aforesaid shall, at the time appointed for that purpose, attend at the office of the said Commissioners, or at some other convenient place to be appointed by him, and from time to time shall, in the presence of the Clerk to the said Commissioners, in case he shall desire to be present, proceed to audit the accounts of the said Commissioners for the year preceding the appointment of such Auditor; and the said Commissioners shall, by their Clerk, produce and lay before such Auditor, at every such meeting, the statement and account hereinbefore mentioned, accompanied with proper vouchers in support of the same, and all books, papers and writings in their custody or power relating thereto; and if the said accounts shall be found to be correct, the said Auditor shall sign the same.

90. Inspectors to visit towns and make reports.

And be it Enacted, That every Inspector shall from time to time, as directed by the Secretary of State, visit any town, district or place appointed, and view and take cognizance of all and singular the acts, orders, matters, proceedings and things taken, made or done, or omitted to be taken, made or done, by the Commissioners appointed to carry this Act into execution, or by any Trustees acting under the powers of any local Act for paving, cleansing, sewering, draining or supplying with water any place; and of all works in progress and completed, and of all rates made and assessed, and on whom, and of all expenses incurred or omitted to be incurred, and of all bye-laws, rules and regulations made by such Commissioners or such Trustees; and shall attend and inquire into any complaints made by the inhabitants of any town, district or place as to the manner of the execution of any works, or as to the existence of any nuisances, and as to any of the proceedings of the said Commissioners or the said Trustees, and shall from time to time report to One of Her Majesty's Principal Secretaries of State relative to any acts or proceedings of any such Commissioners or Trustees as he thinks fit, and as to the state and condition of any town or district, or place, and on any other matters or things relating thereto, in such manner as such Secretary of State may direct.

91. Inspectors may attend meetings of Commissioners.

And be it Enacted, That it shall be lawful for such Inspector to attend any meetings of the said Commissioners held under the provisions of this Act; and he shall by his advice and assistance at all times aid the said Commissioners in carrying this Act into execution; but no such Inspector shall have any right to vote upon any question arising at any such meeting; and all books or minutes of proceedings, orders, accounts, documents and other papers of the said Commissioners shall be open to the examination of the said Inspector, as he shall think fit.

92. Inspector to prepare plans.

And be it Enacted, That, upon application to One of Her Majesty's Principal Secretaries of State, made by the said Commissioners, it shall be lawful for the said Secretary to direct an Inspector with the assistance of the Surveyor and other Officers of the Commissioners, to prepare plans of any new works, additions, alterations or amendments that may be required for the effectual drainage of the houses, streets, courts, open spaces and roads, within any such town or district, including provisions for properly trapped drains or channels of conveyance, for the removal of all waste water and refuse from the houses, and from the surface of such streets and places as aforesaid; and also to draw on such plan the most advantageous lines for main sewers and the best outfalls for clearing the whole area or district of surplus moisture, and for effecting the drainage of the subsoil; and also to point out the best arrangements that can be made for obtaining supplies of water, and report thereon in manner hereinafter provided; and also, if required, to examine and point out the most appropriate means and sites for the collection and sale of such filth and refuse, and its application as manure for agricultural production.

93. Inspector to prepare estimates.

And be it Enacted, That such Inspector shall, with the like assistance of the Surveyor and other officers of the Commissioners, prepare estimates of the probable expense of all such new works, alterations, additions or amendments that may appear to be requisite, and shall in such estimate also set forth the probable total immediate outlay for each description of works, and the probable advantages of executing the same under a contract, for constructing and maintaining them in good and sufficient repair and action during a term of years, and he shall also set forth and specify any other matters or things which may assist the said Commissioners in carrying into execution, in an economical and effective manner, the several works required to be carried into execution under the provisions of this Act, and which may appear to be necessary and proper for the protection of the health and convenience of the inhabitants of such town or district.

94. Power for Inspector to enter lands and tenements.

And be it Enacted, That it shall be lawful for every Inspector, at all seasonable times, with or without assistants, to enter upon, view and

and examine any lands within the limits of this Act, for the purpose of ascertaining and fixing the boundaries of any town or district, for making plans, taking levels, surveying and measuring, or for the purpose of examining any works, or for executing any other powers authorized by this Act, without being subject to any action or molestation whatsoever for so doing.

95. Penalty for obstructing Inspectors.

And be it Enacted, That if any person shall knowingly and wilfully obstruct any Inspector so appointed, in the execution of any of the powers or duties intrusted to him by this Act, such person shall, on conviction before a Justice of the Peace, forfeit and pay for each and every such offence any sum not exceeding *Twenty Pounds*.

96. Inspector's reports to be sent to the Secretary of State, who shall proceed to enforce the law.

And be it Enacted, That the report of every Inspector shall be forwarded to One of Her Majesty's Principal Secretaries of State, who shall take the same into his consideration; and if it shall appear to such Secretary of State that the provisions and regulations of this Act have not been complied with, or that any of the said Commissioners have exceeded or contravened the powers and provisions of this Act, then such Secretary of State shall certify the same to the Attorney-general, who shall proceed to enforce the law against such Commissioners.

97. Commissioners to provide a map.

And be it Enacted, That the said Commissioners shall cause a map and plan to be made of the town or district within their jurisdiction, on a scale not less than *Sixty* Inches to a mile, and shall cause to be marked thereon the course of all existing sewers and drains as far as they can be ascertained, the lines of pipes or conduits for the collection and distribution of water, also the course of the pipes for the distribution of gas, and such other works, with such other particulars as the case may require, and shall cause the said map to be from time to time altered and amended, and additions made thereto, as may be required; and such map, or a copy thereof, with the date expressed thereon of the last time it shall have been so corrected and amended, shall be kept in the office of the said Commissioners, and shall be open at all seasonable hours to the inspection of the owners or occupiers of any lands or tenements within such town or district.

98. Contour lines to be marked on map, and bench-marks to be made.

And be it Enacted, That the said Commissioners shall cause to be inscribed on such map and plan a series of marks or figures denoting a complete system of levelling, exhibiting the true form or relief of the ground in the area or district, and shall also cause to be drawn, wherever practicable, lines of equal altitude, commonly called contour lines, at every *Four* Feet of elevation, or at such other intervals as may appear, upon due inquiry, to be the best adapted for the guidance

of works of sewerage and drainage, for the collection and distribution of water, and for other public and private purposes within such district, and shall also cause proper bench marks to be inscribed and marked at convenient distances and places, at the corners of streets, on posts, houses or other prominent objects within such town or district, which bench marks the said Commissioners are hereby authorized to inscribe.

99. Ordnance surveys to be procured.

Provided always, and be it Enacted, That if any survey of such town or district shall have been made under the directions of Her Majesty's Board of Ordnance, upon a scale of not less than *Sixty* Inches to the mile, it shall be lawful for One of Her Majesty's Principal Secretaries of State to direct a copy of such survey to be procured for the use of the said Commissioners, who shall cause any additions to be made thereto, which shall, on the advice of an Inspector, appear to be requisite for the guidance of future improvements to be made within such town or district; and it shall be lawful for the said Commissioners to cause every such plan to be engraved, printed or lithographed and coloured in such manner as may appear to them most convenient; and the costs of every such map or new survey shall be paid by the said Commissioners out of the sewer rate hereinafter authorized to be levied.

100. Powers of certain local Trustees to cease after the issuing of an order in Council.

And be it Enacted, That if there shall be, within any town or district made subject to this Act by an Order in Council as aforesaid, any body or bodies of Trustees appointed by or acting under or by virtue of any local Act or Acts of Parliament for the purpose of paving, cleansing, sewering, draining or supplying with water, such town or district, or any part thereof, or for any or either of the purposes aforesaid, then on the day to be mentioned in every such Order in Council respectively as the day on which this Act shall come into full force ond operation within such town or district, all and every the powers, authorities and duties, of what nature or kind soever, of such Trustees, and of every officer or other person acting under their authority, shall wholly cease and determine.

101. Certain provisions in local Acts repealed.

And be it Enacted, That in every such case as last aforesaid, the respective powers, provisions and directions contained in every such local Act or Acts of Parliament as last aforesaid for or in relation to the election, appointment and qualification respectively of such Trustees, or of any officer or other person elected or appointed by them respectively, and for the regulations of the meetings of such Trustees, and of the proceedings thereat, shall be and the same are hereby repealed and put an end to from and after the said day to be mentioned in such Order in Council as the day in which this Act shall come into full force and operation within such town or district, but without prejudice to any acts or proceedings previously done, had or transacted under

under or pursuant to the same powers, provisions and directions, or to any demands or liabilities by reason or in consequence thereof, and which shall be existing on the said day so mentioned in such Order in Council as aforesaid.

102. Power of Trustees under certain local Acts transferred to the Commissioners under this Act.

And be it Enacted, That in every such town or district, on and after the day so mentioned in such Order in Council as last aforesaid, such of the powers, authorities and privileges, and the right and obligation to carry into effect such of the provisions respectively contained in such local Act or Acts of Parliament, as if this Act had not been passed, might have been exercised, enforced or carried into effect by the said Trustees respectively, or any or either of such bodies, either alone or with the concurrence of any of the others or other of them, or in or by any particular or specified number, or in or by any of the individual members for the time being of the same body or bodies respectively (save only and except such of the aforesaid powers, authorities, privileges and provisions as are hereby repealed), shall be, and the same are hereby transferred unto and vested in the Commissioners to be appointed for the purposes of this Act for such town or district respectively; and the said respective powers, authorities and privileges shall be from time to time exercised, and the said provisions shall be carried into effect in the manner herein directed: Provided nevertheless, That in every such town or district such of the same powers, authorities, privileges and provisions as by any such local Act or Acts are vested in or directed to be exercised or carried into effect by any or either of such bodies of Trustees, or any member or members thereof respectively, with or subject to any condition or provision for the consent, control, superintendence, direction, request or recommendation of any other body of persons, whether corporate or otherwise, or any member or members thereof, shall, from and after the day mentioned in such Order in Council as last aforesaid, be exercised or carried into effect without reference to and discharged from such condition or provision, and in like manner as if no such consent, control, superintendence, direction, request or recommendation had been originally required for or with reference to the exercise or execution of the same powers, authorities, privileges or provisions respectively, and the same conditions or provisions are hereby in all such cases as aforesaid expressly repealed.

103. Property of such Trustees vested in Commissioners under this Act.

And be it Enacted, That on and after the day mentioned in such Order in Council as the day on which this Act shall come into full force and operation within any such town or district as aforesaid, all the lands, messuages, buildings, works and hereditaments, of whatsoever tenure or description, which shall then belong to or be vested in such Trustees as aforesaid, and also all the monies, bonds, covenants, debts,

arrears of debts, arrears of rates, liabilities, deeds, books, writings, maps, plans and personal estate whatsoever, which shall then belong to or be vested in such Trustees respectively, shall be and the same are hereby vested in the Commissioners appointed for the purposes of this Act for such town or district, for the like respective estates, rights, interests and purposes, and in like manner as the same respectively would have remained or have been so vested in or would have belonged to such Trustees respectively if this Act had not been passed, and all persons and corporations who shall then owe or be subject to any liability, whether immediate or future, to pay any money to such Trustees respectively, shall pay the same, with all interest (if any) due or to accrue due thereon, to the Commissioners appointed under this Act for such town or district respectively, upon the trusts and for the purposes of carrying into execution the powers and authorities hereby entrusted to them.

104. Debts due under local Acts to be payable by the Commissioners under this Act.

AND whereas it may happen that such Trustees as last aforesaid have, under and in pursuance of the provisions of such local Act or Acts of Parliament, contracted specialty and other debts, and it is expedient to provide for the payment of the said debts by the Commissioners to be appointed for the purposes of this Act in such town or district, and to whom the powers of such Trusteess are transferred under the provisions aforesaid; BE it therefore Enacted, That from and after the said day so mentioned in such Order in Council as the day on which this Act shall come into full force and operation within such town or district respectively, all bonds, debts, monies, and securities for money, which before the said day were given, contracted and payable by such Trustees respectively under the powers of their respective local Act or Acts of Parliament, shall, together with all interest due or to accrue due thereon, be paid by the Commissioners to be appinted for the purposes of this Act out of the properties, rents and monies by this Act transferred to and vested in them, or authorized to be received by them under the powers and authorities in such local Act or Acts contained by way of making rates or assessments, or otherwise howsoever, and shall have the same priority as nearly as circumstanees will admit, and shall be recovered from them in like manner, mutatis mutandis, as the same could have been recovered from such Trustees respectively if this Act had not been passed.

105. Contracts, &c., under such local Acts may be enforced by or against the Commissioners under this Act.

And be it Enacted, That on and after the said day mentioned in such Order in Council respectively as the day on which this Act shall come into full force and operation within such town or district as last aforesaid, all contracts, assurances, acts and proceedings by such local Act or Acts of Parliament as aforesaid authorized to be entered into, made or transacted with or carried on by or against, and all forfeitures,

penalties

penalties and other obligations thereby imposed upon such Trustees respectively, in relation to the exercise and execution by them of the several powers, authorities and provisions by this Act transferred to or authorized to be exercised by the Commissioners to be appointed under the provisions of this Act in such town or district respectively and which are not hereby repealed, shall or may be entered into, made or transacted with and be incumbent upon, carried on by and enforced against such Commissioners respectively, in the same manner and as fully as if the respective enactments in relation thereto were herein repeated, with the substitution of a reference to the said Commissioners respectively, for the respective references in the same enactments contained to the said Trustees respectively.

106. Powers of existing Acts to remain in force, if not inconsistent with the powers of this Act.

Provided always, and be it Enacted, That, subject to the provisions of this Act and the full operation thereof, such and so many of the several enactments, powers and provisions in any such local Act or Acts contained as are not hereby repealed, and are not inconsistent with the provisions of this Act, shall, from and after the said time when this Act shall come into full force and operation in any such town or district respectively, operate and take effect in the same manner and as fully as if the same were herein repeated and re-enacted, with the substitution of a reference to the Commissioners for such town or district respectively, for the respective references in the same local Act or Acts respectively, to the Trustees therein mentioned.

107. Nothing in this Act contained to extend to local Acts wherein parties are beneficially interested.

Provided always, and be it Enacted, That nothing hereinbefore contained shall be applicable to any local Act or Acts of Parliament for any of the purposes aforesaid, wherein the Trustees appointed by, or acting under, or by virtue of such Act or Acts, or the person or persons, whose Trustees they may be, are beneficially interested as shareholders, partners, or in other like manner.

108. Her Majesty in Council may in certain cases continue existing officers.

And be it Enacted, That if in all cases where there shall be, within any town or district made subject to the provisions of this Act by an Order in Council as aforesaid, any body or bodies of Trustees whose powers will be transferred under the provisions aforesaid to the Commissioners appointed under this Act, then and in every such case it shall be lawful for Her Majesty, by such Order in Council, or by any supplementary Order in Council, to nominate and appoint, as the first Clerk or Clerks to the Commissioners for such town or district, any person or persons who previously to the issuing of such Order in Council held and enjoyed the office of Clerk or Clerks to any such body or bodies of Trustees respectively, whose powers shall be so transferred as aforesaid to the said Commissioners for such town or district; and also in every such case to nominate and appoint,

as the first Treasurer or Treasurers to the said Commissioners for such town or district, any person or persons who in like manner held and enjoyed the office of Treasurer or Treasurers under such body or bodies of Trustees; and every such Clerk or Treasurer so nominated and appointed by any such Order in Council shall hold his office during his good behaviour.

109. Certain officers to receive compensation, and mode of ascertaining compensation.

And be it Enacted, That every Clerk or Treasurer to any body or bodies of Trustees whose powers shall be transferred under the provisions aforesaid to the Commissioners appointed under this Act for any town or district, and who shall be in office when any such Order in Council relating to such town or district shall be issued, and who shall not be nominated and appointed clerk or treasurer respectively to such Commissioners in and by any Order in Council as aforesaid, or who shall not be elected clerk or treasurer respectively to such Commissioners under the powers of this Act; and every other person, who shall hold at the time aforesaid any office of profit under such such Trustees, and who shall not be employed and retained in an office of equal value by the Commissioners appointed under this Act, shall be entitled to have an adequate compensation, by way of annuity or otherwise, to be assessed by the Commissioners for such town or district, for the salary, fees, and emoluments of his office which he shall cease to hold, regard being had to the manner of his appointment to the said office, and his term or interest therein, and all other circumstances of the case; and every person entitled to such compensation as aforesaid, shall, within *Three* Months after the day when this Act shall have come into full force and operation within such town or district, deliver to the Clerk to the Commissioners a statement under his hand, setting forth the amount received by him or his predecessors in every year during the period of *Five* Years next before the day when he shall have ceased to hold his said office, on account of the salary, fees, emoluments, profits, and perquisites, in respect whereof he shall claim such compensation, and containing a declaration that the same is a true statement according to the best of the knowledge, information and belief of such person, and also setting forth the sum claimed by him as such compensation; and the said Clerk to the Commissioners shall lay such statement before the Commissioners who shall take the same into consideration, and determine thereon; and if any Commissioner shall so require, the person preferring such claim, upon receiving notice in writing, signed by the Clerk to the Commissioners, shall attend at any meeting or adjourned meeting of the Commissioners, for the investigation of such claim, and then and there answer all such questions as shall be asked by any Commissioner touching, the matters set forth in the statement subscribed by such person as aforesaid, and produce all vouchers, books, papers, and writings, in his possession, custody, or power, relating thereto;

thereto; and immediately upon a determination being made, the person preferring such claim shall be informed of the particulars of such determination by notice in writing under the hand of the Clerk to the Commissioners; and in case the person preferring such claim shall think himself aggrieved by the determination of the Commissioners thereon, or in case *One-third* of the Commissioners for such town or district shall, within *One* Month after such determination has been come to, subscribe a protest against the amount of compensation allowed by such determination of the Commissioners as excessive, it shall be lawful for the person preferring such claim, or any Commissioner who shall subscribe such protest, to appeal to the next General Quarter Sessions of the Peace to be holden for the county or borough in which such town or district shall be situate; and the Justices in such Quarter Sessions assembled, or the Recorder, as the case may be, shall thereupon hear and determine such appeal, and award the amount of compensation, if any, which the party ought to receive, and shall order such costs to be paid by either party as to them or him may seem fit; and the Commissioners for such town or district shall, from time to time, pay to every such person entitled to such compensation as aforesaid, the monies or annuity so granted or determined as and for compensation when and as the same shall respectively become due and payable; and every order made on such appeal may be removed by writ of certiorari into any of the Superior Courts, any thing in this Act contained to the contrary thereof notwithstanding.

110. Commissioners may provide a public office, &c.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, to provide and maintain a fit and convenient public office or offices, within any town or district, for holding the meetings and transacting the business of the Commissioners, and for the use of their officers, and for the holding of such other public meetings and transacting such other public business, relating to such town or district as the Commissioners shall from time to time direct or allow to be held or transacted therein; and also to provide lands and buildings, fit and convenient for the deposit of the dung, ashes, and other filth, to be taken and collected under the authority of this Act, for the depositing of stone and other materials for the highways, and for the accommodation of all horses, carts, tools, implements, and other articles, matters, and things required for the purposes of this Act, and for any of such purposes, to purchase or hire any lands, messuages or buildings, or any part of any such lands, messuages or buildings, which shall by the said Commissioners be considered necessary, of and from any person who shall be willing to sell or let the same, or otherwise to cause any new erection or building to be made upon any land or ground which shall be purchased or hired under the provisions of this Act.

111. Commissioners to be surveyors of highways.

And be it Enacted, That the said Commissioners shall be, and they are hereby declared to be, the surveyors of highways within and throughout the town or district for which they shall have been appointed, and shall have, and they are hereby invested with all such powers and authorities as any surveyors of highways in that part of the United Kingdom called England, are or shall be invested with by virtue of the laws now or hereafter to be in force, and shall also be subject to all the liabilities to which surveyors of highways are now by law subject, or may hereafter become subject.

112. Streets vested in the Commissioners.

And be it Enacted, That the management and control over all and every of the streets within any town or district existing and being at the time when the provisions of this Act shall come into full force and operation within such town or district, or which shall thereafter become and be public highways (not being turnpike roads), and the pavements and other materials, as well in the foot-ways as carriage-ways of the said streets, and all erections and buildings, materials, implements and other things provided for the purposes of the said highways by the Surveyors of the Highways, or by the said Commissioners, shall be the property of and are hereby vested in the said Commissioners.

113. Power for Commissioners to pave streets.

And be it Enacted, That it shall be lawful for the said Commissioners from time to time to cause all or any of the streets within such town or district so vested in them as aforesaid, or any part thereof, to be formed, paved or flagged, and the ground or soil thereof to be raised, lowered or altered in such manner and with such materials as they shall think proper; and also to pave or make, with such materials as they shall think fit, any causeways, pavements or footways for the use of passengers in or on the sides of any such street, or elsewhere within such town or district, and to cause such streets, causeways and footways to be repaired from time to time as may be required.

114. Streets not highways may be levelled and paved.

AND whereas it would conduce to the convenience and health of the inhabitants, and be for the public advantage, if provision were made for the levelling, paving and flagging of streets which have been laid out and formed by persons who have neglected to have the same properly levelled and paved, and which have not become highways repairable by the inhabitants at large, and for preventing such inconveniences in future; BE it therefore Enacted, That where any such street or part of a street is now or shall at any time hereafter be formed or laid out within any town or district, and shall not be sufficiently levelled, paved or flagged, it shall be lawful for the said Commissioners, at any time, after giving such notice as is hereinafter provided, to cause any such streets to be freed from obstructions, and

to

to be properly levelled, made, paved or flagged in such way and with such materials as to them shall seem most expedient, and the whole of the cost, charges and expenses attending the same shall be paid and reimbursed to the said Commissioners, in the manner and at the times hereinafter provided, by the owners of the houses, buildings and lands abutting on the sides of such street, in proportion and according to the length of the frontage of their said houses, buildings and land so abutting in each such street, such proportion to be ascertained by the Surveyor of the Commissioners for the time being: Provided always, That every such owner as aforesaid, who shall have well and substantially levelled, made, paved or flagged such proportion of the said streets as may be opposite to and fronting any house, building or land belonging to such person shall stand discharged from making any such payment and reimbursement as aforesaid to the said Commissioners in regard to the pavements of any such street.

115. Certain streets, after certificates, to be highways.

And be it Enacted, That when any such street or part of a street shall have been levelled, made, paved or flagged by the said Commissioners, the same shall be certified by writing under the hands of their Surveyor; and such street or part of a street shall thereupon be a public highway, and repaired and repairable from time to time by the said Commissioners in such and the same manner as the other public streets within such town or district are or may be repaired or repairable; and every such certificate shall be transcribed in and recorded amongst the proceedings of the said Commissioners.

116. Streets may be declared highways.

And be it Enacted, That if any street within any town or district shall at any time be made, paved, flagged and put into good order and condition to the satisfaction of the said Commissioners, then on the application of the persons being the owners of the houses or buildings adjoining to or abutting upon such street, or being the owners of the greater part in extent of such houses or buildings, by writing under their hands made to the said Commissioners, it shall be lawful for the said Commissioners, by writing with their common seal attached thereto, to declare the same to be a public highway; and after such declaration the same shall be a public highway, and for ever afterwards repaired and repairable by the said Commissioners.

117. Levels of new streets.

And be it Enacted, That the levels of every new street or intended new street which shall be made or laid out within any town or district shall be fixed under the direction of the Surveyor of the said Commissioners, and every person who shall intend to make or lay out any new street, whether the same be intended to be used as a public way or not, shall give or cause to be given to the said Commissioners notice of such intention, by writing delivered to their Clerk, or left at the office of the said Commissioners; and the level so fixed by the

said Commissioners shall thereafter be kept and observed by all persons raising any house or other building in the said street: Provided, nevertheless, That in case the said Commissioners shall not cause such level to be fixed within the space of *Six* Weeks from the time of the delivery of such notice as aforesaid, it shall be lawful for the person causing such street to be made or laid out, to proceed with the same as if such level had been fixed as aforesaid; and in every such case every change of the level which the said Commissioners shall afterwards deem requisite, and of the works consequent thereon, shall be made by the said Commissioners, and the expense thereof shall be defrayed out of the paving-rate which they are hereinafter authorized to levy; but in case such person so intending to make or lay out any new street as aforesaid shall neglect to cause such notice to be given to the said Commissioners as aforesaid, or shall not keep the level so fixed by the Commissioners, then all the expenses consequent upon the change of any level of the said street which shall be deemed requisite by the said Commissioners, shall be defrayed by the person causing such new street to be made or laid out, which expenses shall be recovered as any penalty under the provisions of this Act.

118. Width of new streets.

And be it Enacted, That it shall not be lawful to form, lay out, or build any new street within any town or district, unless the same, being a carriage-road, shall be at least *Thirty* Feet wide, or being a foot-way only, shall be at least *Twenty* Feet wide, but if the buildings, or any of them not being a public building fronting any street being a carriage-way be more than *Thirty* Feet high from the level of the street, or being a foot-way only shall be more than *Twenty* Feet high from the level of the street, then such street must be of a width equal at the least to the height of such buildings above such level, and every such street being a foot-way only, shall have an entrance thereto, being at the least the full width of such street, and open from the ground upwards: Provided always, That these provisions shall not extend or apply to any street which shall be proved to the satisfaction of the Commissioners to have been agreed to have been formed or set out in the disposition of any estate for sale in lots, and of which a sale plan shall have been so proved to have been prepared previous to the issuing of any Order in Council for enforcing the provisions of this Act within such town or district.

119. Commissioners may place fences to foot-ways.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, to place any fences, rails and posts on the sides of any foot-ways or carriage-ways within the limits of any town or district, for the purposes of safety, and to prevent any carriage or animals going on the same, and also to place any posts in any carriage-ways, so as to make the crossings thereof less dangerous for foot passengers, and also from time to time to repair and renew any such fences, rails or posts, or to remove the same, or any other obstruction

or

or encroachment on any carriage-way or foot-way within the limits of such town or district.

120. Penalty on persons altering pavements without the consent of the Commissioners.

And be it Enacted, That if any person shall displace, take up, or make any alteration in the pavements, flags or other materials of any foot or carriage-ways in any street within any town or district without the consent, in writing, of the said Commissioners, or shall cause any obstruction to any street, every such person so offending shall for every such offence, forfeit a sum not exceeding *Five Pounds*: Provided that nothing in this Act contained shall be taken to curtail or prejudice the privileges and authorities of any public Company or other body or person authorized by law to take up the pavements, flags or other materials of any street, or to deposit any materials therein for building or other purposes.

121. Persons disturbing pavements to reinstate them, and guard with lights, to prevent accidents.

And be it Enacted, That if any company or persons authorized to take up any of the pavement, flagging, curbstones or other materials of the said streets so vested in the said Commissioners as aforesaid, for the purpose of laying, altering or repairing any gas or water-pipes, or other lawful cause, shall not with due diligence cause the ground and rubbish to be filled in, and the pavement or flagging and curbstones to be reinstated, and the surface to be made good in a proper and substantial manner, and shall not in the meantime fence and guard and affix and maintain lights during the night near to the places where any ground shall be open so as to prevent any accidents, every such Company or person so offending shall, for every such offence, forfeit a sum not exceeding *Five Pounds*, and it shall be lawful for the said Commissioners to fill in such ground and to remove such rubbish, and to repair and make good the pavement, flagging or curbstone of any such street so broken up, and properly to fence or guard any such excavation, and to place and maintain lights during the night to prevent accidents, as to them shall seem necessary; and the reasonable costs and charges thereof shall be paid by the said Company or persons respectively to the Treasurer of the said Commissioners, and in default of payment thereof the amount thereof shall be recovered from such Companies or persons respectively as any penalty is recoverable under this Act: Provided always, That such pavement, flagging, curbstone or materials shall not be considered to have been reinstated in a proper and substantial manner by such Company or any other person having authority to take up the same, unless the same shall have been reinstated with the same or similar materials of the like quality and thickness, and cemented and bound together in the same or in an equally substantial manner as those of which it was composed.

122. Power for Commissioners to contract with companies for restoring pavements.

And be it Enacted, That it shall be lawful for the said Commissioners to contract and agree, for any term of years or otherwise with the several Companies or persons respectively authorized to take up any

any of the pavements, flagging or other formed surface of any of the streets within any town or district, for the filling in, paving, flagging, and restoring of such parts of the said streets as shall be from time to time required to be taken up for the purpose of laying, altering or repairing any pipes or other like purpose.

123. Commissioners liable to indictment for want of repairs.

And be it Enacted, That the said Commissioners shall be liable to be indicted at common law for the want of the sufficient repair of any public highway within such town or district, in the same manner as the inhabitants of the said place were before the passing of this Act.

124. Persons rated under this Act to be free from highway rates.

And be it Enacted, That every person who shall be assessed to the paving rate made under this Act, for any lands or tenements within any town or district, shall be and is hereby exonerated and released from the payment of any rates or assessments for the repair of any highways which he might have been subject or liable to in respect of such lands in case this Act had not been passed: Provided always, That nothing herein contained shall extend, or be deemed or construed to extend, to exempt the Trustees appointed to execute any Act of Parliament made for the repair of any turnpike-road, or any other person, from the repair of any street or other highway, to the repair of which such Trustees were liable by virtue of any such Act, or such other persons were or might be liable, by reason of the tenure of any lands, or other good and lawful cause or obligation, but that all such Trustees and other persons shall, notwithstandfng any thing herein contained, be charged and chargeable with the repairs and maintenance of any such street or highway as last aforesaid, in as full and ample a manner as they were or might be respectively charged with and liable to if this Act had not been passed.

Act not to discharge Trustees of any turnpike road, nor persons liable by tenure, from liability to repair highways.

125. Towns to be effectually sewered by Commissioners.

AND whereas it is expedient to make provision for the effectual sewerage and drainage of the whole of any town or district ordered to be within the provisions of this Act; BE it Enacted, That when any such town or district shall be made subject to the provisions of this Act, by an Order in Council, the said Inspector with the assistance of the Surveyor and other officers of the Commissioners shall make a careful inspection of the sewerage works (if any) then existing in such town or district, and shall thereupon furnish the Commissioners with an estimate of the probable expenses necessary to be incurred for the purpose of effectually sewering and draining such town or district, and such Commissioners shall, and they are hereby required, with all convenient dispatch, to avail themselves of the powers and authorities by this Act conferred upon them for such purposes, and to cause such town or district to be well and effectually sewered and drained in the manner hereinafter provided.

Inspector to furnish Commissioners with an estimate of costs of sewerage works.

AND

126. Separate levels or districts may be formed for the purpose of constructing sewerage works.

AND whereas it may, in some cases, be desirable that the sewerage and drainage of a town or district should be carried on and completed in separate levels or districts, and at separate periods of time, at the costs of the persons liable to be assessed to the sewer's rate within such separate levels or districts as hereinafter is provided; BE it Enacted, That the Inspector may, if he shall think fit, certify to the said Commissioners that separate districts or levels for the purposes aforesaid should be formed in such town or district; and the Inspector shall, from time to time, as may be convenient, and as he shall think fit, report every such level or district to the Commissioners, and particularly describe, define and mark down, in a plan of such town or district, every such level or district, and also furnish the said Commissioners with a separate estimate of the probable expenses necessary to be incurred for the purpose of effectually sewering and draining every such separate level or district; and thereupon, when and as often as any such level or district shall be reported, the Commissioners shall, and they are hereby required, with all convenient dispatch, to avail themselves of the powers and authorities by this Act conferred upon them for such purposes, and to cause such separate level or district to be well and effectually sewered and drained, and so from time to time until the whole of such town or district shall be well and effectually sewered and drained.

127. Sewers and other works vested in the Commissioners.

AND for carrying into effect the purposes aforesaid, BE it enacted, That all sewers, together with all buildings and other works, materials, and things therewith connected, existing within any town or district at the time the provisions of this Act shall come into full force and operation therein, or which shall thereafter, at any time, be constructed and made therein, whether constructed at the cost of the said Commissioners or otherwise, and the entire management and control over the same, subject to the provisions hereinafter contained, shall be vested in the said Commissioners.

128. Commissioners to make sewers where none exist.

And be it Enacted, That the said Commissioners shall cause to be constructed and made such and so many main and other sewers as shall be necessary and proper for the effectual draining of the whole of such town or district, as shall from time to time be reported to them by the said Inspector, all such reservoirs, engines, sluices, penstocks and other works as shall be required for properly flushing and cleansing out such sewers in, under or across all or any of the streets, whether dedicated to the use of the public or not, turnpike roads, and other places within such town or district, and, if needful, through and across all underground cellars and vaults which they may find under any of the said streets, ways, thoroughfares, turnpike roads and other places, doing as little damage as may be, and making full compensation for any damage done; and also to cause such and so many rings or openings to be made

or left in the sides of the said sewers as will be sufficient to enable the owners or occupiers of any houses built or to be built in, adjoining or near to any such sewers, to make or branch any drain from such house into the said sewers, as the said Commissioners shall think necessary and expedient for that purpose; and in case it shall be found necessary, for completing any of the aforesaid works, to build, carry, and continue the same into and through any enclosed lands or other place, not being a public way, it shall be lawful for the said Commissioners to build, carry and continue the same into or through the said lands or other place accordingly, making full compensation to the owners and occupiers thereof; and also to cause such sewers to communicate with and empty themselves into any public river, stream or water-course, or to cause the refuse from such sewers to be conveyed by an appropriate channel to the most convenient site for its collection and sale, and its application as manure for agricultural purposes, as may be deemed most expedient, but so that the same shall in no case become a public nuisance or annoyance to the neighbourhood; and all such sewers and other works and premises shall belong to and be at all times under the control, care and management of the said Commissioners, and of their surveyors and officers.

129. Mill-dams and weirs causing obstructions to drainage may be purchased by Commissioners.

AND whereas the natural course and free current of streams are frequently impeded by the existence of mill-dams, weirs, locks and other obstructions across such streams, whereby the sewerage and drainage of the surrounding district is interrupted, and foul and stagnant ponds and pools of water created, and the health of the inhabitants seriously injured, and it is expedient that means should be provided for remedying the same; BE it therefore Enacted, That whenever the Inspector shall report that in any town or district any mill-dam, weir, bank, lock, wall or other obstruction to the free current of any stream or streams into which the contents of the sewers and drains from such town or district, or any part thereof, have hitherto been discharged, or into which it may become necessary to convey and discharge the contents of any sewers or drains hereafter to be made, or which are likely otherwise to prevent and impede the good and efficient drainage of such town or district, it shall be lawful for the said Commissioners, and they are hereby empowered to contract and agree, subject to the approval of the said Inspector, with all and every the owner or owners of any such mill-dam, weir, bank, wall or other obstruction, or other person enabled to sell and convey the same under the provisions of the Lands Clauses Consolidation Act hereinafter mentioned, for the purchase of the same, or to make any other arrangement or agreement with any such owner or other person, for altering, amending, or removing such obstructions, as shall be found most expedient; and all the costs, charges and expenses, attendant upon any such purchase or arrangement shall be paid out of any monies authorized

rized to be raised for the purposes of the sewerage of such town or district, under the provisions of this Act.

130. Commissioners may alter sewers.

And be it Enacted, That the said Commissioners shall have authority from time to time, as they shall see fit, to widen, deepen, embank, alter, arch over, amend, clean, and scour out, all or any of the sewers within such town or district, and also to cleanse, drain off into any sewers, and otherwise abate all stagnant ponds, ditches, and other receptacles of foul water and filth existing within the said town or district, and further, in cases in which any of the existing or future sewers vested in the said Commissioners, shall, from any cause whatever, appear to them to have become useless or unnecessary, it shall be lawful for the said Commissioners, if they shall think fit to do so, to take up, stop, or fill in, and discontinue, such old sewer, in such manner that the same shall not be or become a nuisance or annoyance to the neighbourhood.

131. Commissioners not to obstruct existing private drains.

Provided always, and be it Enacted, That no person shall, by means of any alteration, amendment, enlargement or discontinuance of any sewer, or other proceeding of the Commissioners under this Act, be deprived of the use or enjoyment of any private sewer or drain which such person shall theretofore have been lawfully entitled to use, but the said Commissioners shall, and they are hereby required so to construct or alter any such private sewer or drain as to render the same as effectual for the purpose for which it was intended, as any such drain or sewer might be at the time of such alteration, or to provide, for the use of such person, such other sewer or drain as shall be equally effectual for such purpose; and in case the said Commissioners shall refuse or neglect so to construct and alter any such private drain or sewer, the use of which may be affected by the acts of the said Commissioners, or to provide such other sewer or drain as aforesaid for the space of *Twenty-eight* Days next after notice in writing served upon them, the said Commissioners shall forfeit and pay to the party aggrieved any sum not exceeding *Forty Shillings* for every day during which the said Commissioners shall refuse or neglect so to construct and alter or to provide such other drain or sewer as aforesaid.

132. Power to purchase sewers.

AND whereas in certain towns and districts divers sewers have been constructed and made, by and at the expense of individuals, or public companies, or other bodies, who are beneficially interested therein, and a certain annual income or profit is derived to them, or to the persons who have become the beneficial owners thereof, by payments received from the owners or occupiers of divers houses and buildings using the same, and it is expedient that all such sewers, as well as all other

sewers within any town or district, should be vested in and be under the control of the said Commissioners; BE it Enacted, That it shall be lawful for the said Commissioners to purchase and take all or any of such sewers, being in and under any of the streets within such town or district, which the said Commissioners shall and may require or deem it desirable to purchase for the purposes of this Act, in the same manner as they are hereinafter authorized to purchase any lands; and all powers and provisions hereinafter contained for the purchase of lands, and ascertaining the value thereof, and the damage sustained by the persons interested therein, and for the payment and investment of the purchase-money of any such lands, by the Commissioners, shall be applicable to all such sewers and drains as the Commissioners shall purchase and take under the authority of this Act, in the same manner as if such powers and provisions were herein set forth.

133. Reservation of right to use sewers.

AND whereas the owners of houses or buildings at the sides of or near any of the said sewers which may at any time be purchased by the said Commissioners, may, before such purchase, have purchased of and from the constructors or owners of such sewers, or otherwise lawfully acquired the perpetual right to use the same, as appurtenant to such respective houses or buildings; BE it Enacted, That the owner and occupier for the time being of every house or building in respect whereof or as appurtenant whereto such right shall have been purchased or otherwise lawfully acquired, shall and may at all times hereafter use and enjoy such respective sewers, or such other sewers as shall be made and substituted in the place thereof, in common with all other persons having for the time being the right to use the same, and as appurtenant to such respective house or building, without interruption by the said Commissioners, and without the liability to contribute to any rate which may be made for the formation of new sewers.

134. Owners to furnish list of houses in respect whereof the right to use sewers has been acquired.

And be it Enacted, That whenever the Commissioners shall give notice to the owner or owners of any such private sewers of their intention to purchase the same under the provisions of this Act, the owner or owners to whom such notice shall be given, shall, within *Twenty-one* Days after such notice, deliver to the said Commissioners a statement in writing of the houses or buildings in respect whereof the right to use and enjoy such sewer shall have been theretofore purchased or lawfully acquired; and such last-mentioned owner or owners shall sign such statement, and therein declare that the same is true, and contains the whole number of houses and buildings in respect whereof such right shall have been purchased; and in calculating the amount of the purchase-money or compensation payable to the owner or owners of and for such sewers, there shall be deducted the amount of the value of the rights so sold or disposed of.

And

135. Sewers made in turnpike roads.

And be it Enacted, That wherever any sewer or surface drain shall be constructed by the Trustees of any Turnpike Road for the purpose of draining and carrying off the surface water of any such road, it shall be lawful for the said Trustees to cause such drain or sewer, and the said Commissioners shall allow the same to communicate with and empty itself into any convenient sewer near thereto vested in the said Commissioners: Provided always, That every such communication shall be made under the direction and to the satisfaction of the Surveyor of the said Commissioners; and if any sewer shall be constructed by the said Commissioners in any Turnpike Road, in such a manner that the same shall be used for carrying off the surface water, or for otherwise draining such road, then the said Trustees shall contribute such a fair proportion towards the expense of such sewer as shall be adequate to the amount of the benefit derived therefrom; and in case of any dispute as to the amount of such proportion, the same shall be settled by the Inspector.

136. Sewers may be used by owners and occupiers of land beyond limits of town or district.

AND whereas it is expedient to give facilities for extending as much as possible the drainage in the neighbourhood of large towns and populous districts; BE it therefore Enacted, That it shall be lawful for any person, being the owner or occupier of any property situate beyond the limits of any town or district, and in respect of which such owner or occupier would not be liable to the payment of the rates authorized to be levied under this Act, upon payment to the said Commissioners for the use of their sewers of such a reasonable sum of money as shall be agreed upon between them, or in case they cannot agree, such sum to be fixed by the Inspector, or a referee to be named by him, at his own expense, to branch into and to cause to communicate with any of the sewers vested in the said Commissioners, any sewer or drain which in respect of the said property may be lawfully made therefrom, of such a size and in such manner and form of communication in all respects as the said Commissioners shall direct or appoint: Provided always, That nothing in this Act contained shall affect any right heretofore acquired by the owners or occupiers of any such property to communicate with or use any of the sewers or drains vested in the Commissioners under the provisions of this Act.

137. Commissioners to give notice of works in certain cases.

And be it Enacted, That before commencing to level, make, pave or flag any street under the provisions hereinbefore contained, which has not become a highway, and before making any sewer under this Act where no common sewer previously existed, and before commencing to widen, deepen, embank, alter, arch over or amend any sewer at present existing, and before abandoning any old sewer, the said Commissioners shall give notice of their intention to level, make, pave or flag any such street, or to make such new sewer, or to alter or amend such existing sewer, or to abandon such old sewer, as the case may be, by affixing, *Twenty-eight* Days at least before the

commencement of any such work, to the principal door of every church and chapel in each of the several parishes, townships or places in which such street is situate, or in or through which such sewer is intended to pass, or where such existing or old sewer passes, a printed or written notice, specifying the works intended to be undertaken, and shall also affix such notice in a conspicuous place at the ends of each and every such street through or in which such work is intended to be undertaken; which notice shall set forth the name or situation of the street intended to be levelled, made, paved or flagged, and the name or names of the place or places through or near which it is intended the said new sewer shall pass, or the existing sewer be altered or amended, or the old sewer be stopped up, and also the places of the beginning and the end thereof, and shall refer to a plan of such intended work, which shall be made under the direction of the surveyor to the said Commissioners, showing the depth of such sewers below the surface of the ground, and on a scale not less for the plan than *One* Inch to *Sixty-six* Feet, and for the section of the sewers not less than *One* Inch to *Two* Feet, and such plan shall be deposited in the office of the Commissioners, and be open at all reasonable hours during such *Twenty-eight* Days for the inspection of all persons interested therein; and such notice shall also set forth the time and place appointed for holding a meeting of the said Commissioners to consider any objections made against such intended works, and all persons who shall deem themselves interested therein, or likely to be aggrieved thereby, shall be entitled to be heard before the said Commissioners at such meeting; and thereupon the said Commissioners may abandon or make such alterations in the said intended work as they shall judge fit: Provided always, That no alteration which shall cause a deviation of more than *Ten* Yards from the line described in the notice and set forth in the plan; and no such work shall be begun until the end of *Seven* Days after an order for the execution thereof shall have been duly made by the said Commissioners, and entered in the books of such Commissioners, nor unless such plan of works shall be approved of by the Inspector, which approval shall be signified by his signing the same.

138. Appeals.

And be it Enacted, That it shall be lawful for any person liable to contribute towards the expense of any of the works aforesaid, or who shall otherwise deem himself to be aggrieved by the undertaking of such work, at any time within *Seven* Days next after the making of any such order by the Commissioners, to give notice in writing to the said Commissioners, that he intends to appeal against the undertaking thereof to the next General or Quarter Sessions of the Peace for the county or borough within which such town or district shall be situate, which shall be holden after the expiration of *Ten* Days next after such notice, together with a statement in writing, of the grounds of the appeal; and if, within *Four* Days next after giving or delivering such

such notice as aforesaid, any such party shall enter into a recognizance before some Justice of the Peace, with two sufficient sureties, conditioned to try the appeal and abide the order of the court, and pay such costs as shall be awarded by the court thereupon, it shall not be lawful for the said Commissioners to begin to execute under the authority of this Act any such work so appealed against until after the judgment of the court upon such appeal; and such Court, upon due proof of such notice and of such recognizance having been given and entered into, shall hear and determine the matter of the appeal, and shall make such order thereon, and award such costs to either of the parties, as the court in its discretion shall think fit: Provided always, That it shall not be lawful for the appellant to be heard in support of such appeal, unless such notice and statement shall have been given as aforesaid, nor on the hearing of such appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

139. House drains to be made.

AND whereas numerous houses and buildings have from time to time been erected and built without having proper drains communicating therefrom with any sewer, which proceedings are highly prejudicial to the public good; BE it Enacted, That in all cases where any house or building, situate within any town or district, shall at any time be found not to be drained by a sufficient drain or pipe communicating with some sewer, and emptying itself into the same, to the satisfaction of the said Commissioners, and if a sewer of sufficient size, under the jurisdiction of the said Commissioners, shall pass along any street, and within *Thirty* Feet of any part of such house or building on a lower level than such house or building, it shall be lawful for the said Commissioners, by notice in writing, to require the owner of such house or building forthwith, or within such reasonable time as shall be appointed by the said Commissioners, to construct and make from such house or building, into the nearest common sewer, a covered drain or pipe of such materials, of such size, at such level, and with such fall, as shall be adequate for the drainage of such house or building, and also, if practicable, of its areas, water-closets, privies and offices, if any, and to carry and convey the soil, drain and wash therefrom into the said sewer; and if the owner of such house or building shall refuse or neglect, during *Twenty-eight* Days next after the said notice shall have been delivered to such owner, or left at such house or building, to begin to construct such drain, or shall thereafter fail to carry it on, and complete it with all reasonable despatch, it shall be lawful for the said Commissioners, and they are hereby required, to cause the same to be constructed and made, and to recover the expenses to be incurred thereby in the manner hereinafter provided.

140. No house to be built without drains.

And be it Enacted, That it shall not be lawful to erect any house or other building within the limits of any town or district, unless a drain be constructed, to the satisfaction of the said Commissioners, of such materials, of such size, at such level and with such fall as they shall direct, so that the same shall be available for the drainage of the lowest floor of such building, and also of its areas, water-closets, privies and offices, if any, which drain shall lead from the intended site of such house to such sewer already made or intended to be constructed near thereto, as the said Commissioners shall direct and appoint, or if there be no such sewer existing, or intended to be constructed within *Thirty* Feet of any part of the intended site of such house, then to such covered cesspool or other place, not being under any dwelling-house, as the said Commissioners shall direct.

141. Notice of buildings to be given to the Commissioners.

And be it Enacted, That before beginning to lay or dig out the foundations of any new house within the limits of any town or district, or to rebuild any house therein, and also before making any drain for the purpose of draining water directly or indirectly from any land or tenement into any sewer under the jurisdiction of the said Commissioners *Fourteen* clear Days' notice in writing shall be given to the said Commissioners by the person intending to build or rebuild such house, or to make such drain; and every such foundation shall be laid at such level as is provided by this Act, and under such regulations as the said Commissioners shall order; and every such branch drain shall be made in such direction, manner and form, and of such materials and workmanship as the said Commissioners shall order; and the making of every such drain shall be under the survey and control of the said Commissioners; and in default of such notice, or if such building or drain shall be begun or made without or in any respect contrary to any order of the said Commissioners or the provisions of this Act, it shall be lawful for the said Commissioners to cause such building to be demolished, and to cause such drain to be relaid, amended or remade, as the case may require, and to cause the expenses thereof to be levied and repaid to them by the owner thereof in the manner hereinafter provided.

142. Houses rebuilt to be on proper level.

And be it Enacted, That whenever any house shall be rebuilt within any town or district, the level of the lowest floor of such house shall be raised sufficiently to allow of the construction of such a drain as is hereinbefore provided in the case of houses to be built after the passing of this Act, and for that purpose the levels shall be taken and determined under the direction of the said Commissioners; and whenever any house shall be taken down as low as the floor of the first story for the purpose of being built up again, such building shall be deemed a rebuilding within the meaning of this Act.

And

143. Private drains may be branched into sewers constructed by Commissioners under certain regulations.

And be it Enacted, That it shall be lawful for any person, at his own expense, to make or branch any drain into any of the sewers vested in the said Commissioners or authorized to be made by virtue of this Act, or otherwise acquired by them, of such a size and in such manner and form of communication in all respects as the said Commissioners shall direct or appoint; and for that purpose to take up and remove so much of the pavement and other materials of any street as may be required, unless the said Commissioners shall consent and agree, which they are hereby authorized to do, to form so much and such portion of such drain as shall lead from the point of communication in such sewer to the extremity of such street; and in case any person shall make or branch any drain into any of the said sewers so vested in the said Commissioners, or authorized to be made under and by virtue of this Act, of a larger size or in a different manner and form of communication than shall be directed or appointed by the said Commissioners, every person so offending shall for every such offence forfeit a sum not exceeding *Five Pounds*.

144. Commissioners may agree to make house-drains at expense of owner

AND whereas it would tend to insure a greater efficiency and economy in the execution of works, if the same were executed by persons under the immediate direction and control of the surveyor of the said Commissioners; BE it Enacted, That it shall be lawful for the said Commissioners to contract and agree with the owners of any houses or other tenements, within such town or district, that any drains required to be made by such owners should be constructed and made by the said Commissioners; and the cost price of making such drains, as certified by the Surveyor of the said Commissioners, shall be repaid by such owners to the said Commissioners, and in default of payment, the same may be recovered in the manner hereinafter provided.

145. Vaults and cellars under streets not to be made without the consent of the Commissioners.

And be it Enacted, That no vault, arch or cellar, shall be made under any street within any town or district, without the consent of the said Commissioners first obtained in writing, and that all such vaults, arches and cellars hereafter to be made within any town or district shall be substantially made, and so as not to interfere or communicate with any drains or sewers under the control of the said Commissioners, without their consent in writing first obtained; and if any vault, arch or cellar shall be made contrary to the provisions of this Act, it shall be lawful for the said Commissioners to fill up the same, and the expenses incurred thereby shall be paid by the person making such vault, arch or cellar.

146. Gully-holes, &c., to be trapped.

AND whereas the noxious effluvia exhaling from gully-holes of sewers and drains has been found to be unwholesome and injurious to health, it is therefore expedient that some provision should be made

in respect thereof, in order to obviate the same; BE it Enacted, That the said Commissioners, and the owners of any private drains, shall, by providing proper traps or other coverings, or by ventilation, or by such other ways and means as shall be practicable for that purpose, prevent the effluvia of sewers and drains from exhaling through gully-holes, gratings, or other openings of sewers in streets or other places.

147. Drains, privies and cesspools to be kept in good order by owners and occupiers.

And be it Enacted, That all drains, as well within as without the lands or tenements to which they belong, and all privies and cesspools within any town or district, shall be under the survey and control of the said Commissioners, and of the Surveyors and officers appointed by them for that purpose, and shall be repaired and kept in proper order at the cost and charges of the owners of the lands and tenements to which the same belong; and if the owner and occupier of any land or tenement to which any such house, drain, privy or cesspool shall belong, shall neglect to repair and to put the same into good order, in the manner required by the said Commissioners during *Fourteen* Days after notice in writing for that purpose, signed by the Clerk to the said Commissioners or their Surveyor, shall have been given to such owner, or left upon the premises, it shall be lawful for the said Commissioners to order such drain, privy or cesspool to be repaired and put in good order, and to levy and recover the costs and expenses thereof from such owner in the manner hereinafter provided.

148. Inspection of drains, privies and cesspools.

And be it Enacted, That it shall be lawful for the said Commissioners, or for their Surveyor, or such other person as they shall appoint, to inspect any drain, privy or cesspool, within the said town or district, and for that purpose, at all reasonable times in the daytime, after *Twenty-four* Hours' notice in writing shall have been given to the occupier of the premises to which such drain, privy or cesspool is attached, or left upon the premises, to enter by themselves or their Surveyor and workmen, upon any lands and tenements, and also to cause the ground to be opened in any place they shall think fit, doing as little damage as may be; and if such drain, privy or cesspool shall be found to be made to the satisfaction of the said Commissioners, and in proper order and condition, they shall cause the same to be closed and made good as soon as may be, and the expenses of opening, closing, and making good such drain, privy or cesspool, shall be defrayed by the said Commissioners.

149. Penalty on persons making or altering drains, &c., contrary to the orders of the Commissioners.

And be it Enacted, That in case any sewer, drain, privy, cesspool, or other work, shall, on inspection, be found not to have been made according to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or in case any person, without the consent of the Commissioners, shall construct, rebuild, clear out, unstop,

unstop, or in anywise alter any sewer, drain, privy, cesspool or other work which has been ordered by them not to be made, or to be demolished, stopped up, or amended, every person so offending, shall forfeit and pay any sum not exceeding the sum of *Five Pounds*.

150. Commissioners empowered to enter upon lands.

And be it Enacted, That the said Commissioners shall, for the purposes of this Act, have full power and authority to enter, or to order and direct their surveyor, or other officers and persons employed by them, at all reasonable hours in the day-time, to enter into and upon any land or tenement within any such town or district, and into and upon the land on which any house, building, or other erection is built, or being built, or intended to be built, and into and upon any buildings, or any part thereof, without being liable to any action at law, or suit in equity, or any other legal proceedings or molestation whatsoever, for or on account of such entry, or the works done or to be done in any part thereof in pursuance of this Act.

151. Bars to be erected across streets while repairs or alterations are making, and lights placed at night.

And be it further Enacted, That it shall be lawful for the said Commissioners, and they are hereby required, when any of the said streets so vested in them shall be under repair, or when any sewers or drains are being made or shall be under repair, to take proper precaution by shoring up and protecting the adjoining houses, and to fix and place, or cause to be fixed and placed, such and so many bars, chains, or posts across, or in any of the said streets, to prevent the passing and repassing of carriages, carts, cattle and horses, during the time of such works and repairs being carried on as to them shall seem proper; and the said Commissioners shall cause any sewer, or drain, or other works, during the construction or repair thereof by them, to be well and sufficiently lighted, and attended by a watchman during the night, to prevent accidents; and if any person shall take down, alter or remove any of the said bars, chains or posts, or extinguish any light, without the authority or consent of the surveyor of the said Commissioners, every such person so offending shall, for every such offence, forfeit and pay any sum not exceeding *Five Pounds*.

152. Situation of gas and water pipes may be altered at the expense of the Commissioners.

And be it Enacted, That if for the purposes of this Act it shall at any time or times be deemed necessary and expedient by the said Commissioners to raise, sink or otherwise alter the situation of any water or gas-pipe or pipes, plug or plugs, or other water-works or gas-works, so far as the same are laid or placed in any of the public streets or ways of any town or district, it shall and may be lawful to and for the said Commissioners, and they are hereby empowered so to do, or cause the same to be done, when and as often and in such manner and in such place or places as they the said Commissioners shall think right and proper; provided that the water or gas-pipes, plug or other water-works or gas-works be not permanently injured thereby,

thereby, or the water or gas prevented from flowing in its proper channel; and the costs, charges and expenses attending such raising, sinking and altering, and full compensation for every damage done, shall be paid by the said Commissioners out of the money authorized to be raised by virtue of this Act for the purposes of sewerage.

153. Commissioners to make compensation for damage done.

And be it further Enacted, That if by reason of the alteration of the level of any street, the making or altering of any sewer, or in otherwise carrying into execution any of the powers or authorities of this Act, any house, building, or other hereditament within any such town or district, shall be damaged, or otherwise prejudicially affected, then and in every such case the said Commissioners shall make good such damage, and pay to the owner and occupier of such house, building, or other hereditament, such amount of compensation for such injury as shall be agreed upon between such owner and occupier and the said Commissioners; and if such owner and occupier and the said Commissioners cannot agree as to the amount of such compensation, and the proportions thereof to be paid to such owner and occupier respectively, then the amount of such compensation, and also the proportions which the persons claiming the same are entitled to, shall be settled and recovered before Two Justices, in the manner hereinafter provided.

154. Commissioners not to be obstructed in their duty.

And be it Enacted, That if any person at any time shall obstruct or molest the said Commissioners, or any surveyor or other officer or workman, or other person employed by them, in the performance and execution of their duty, or of any thing which they are respectively required to do by or by virtue or in consequence of this Act, every such person so offending shall forfeit and pay, as a penalty, any sum not exceeding the sum of *Twenty Pounds*.

155. Proceedings in case of tenants opposing the execution of this Act.

And be it Enacted, That in case the occupier of any house, building or premises, shall prevent the owner thereof from carrying into effect, in respect of such house, building or premises, any of the provisions of this Act, or from doing any of the matters or things which by this Act are required to be done by such owner, and after notice of this provision shall have been given by the owner of such house, building or premises to the occupier thereof, it shall be lawful for any Justice, upon proof thereof, to make an order in writing, requiring such occupier to permit such owner to carry into effect the matters required to be done by him, and if after the expiration of *Twenty-one* Days from the date of such order, such occupier shall continue to refuse to permit such owner to execute such works, then the right of such occupier to the possession of the premises shall cease and determine, and any demise which may have been made to him thereof shall be at an end; and it shall be lawful for any Justice to issue his warrant

rant to any constable requiring him to remove such occupier from the said premises, and to put the owner into the possession thereof, and any constable to whom such warrant may be directed shall duly execute the same, and every owner who shall with reasonable diligence pursue the means hereby provided for obtaining possession of such house, building or premises, shall be discharged from any penalties to which he may have become liable by reason of any default in such matter.

156. How costs, charges and expenses are to be recovered from owner.

And be it Enacted, That if the owner of any house, buildings or land made liable by this Act for the repayment to the said Commissioners of any costs, charges and expenses incurred, or monies expended by them, shall not, when and as soon as the same shall become due and payable from him, repay all such costs, charges, expenses and monies to the said Commissioners, it shall be lawful for the said Commissioners to recover the same from such owner, or from any subsequent owner of such premises, in an action of debt, in any of the Superior Courts, or in any other court having jurisdiction.

157. Power to levy charges on occupier.

And be it Enacted, That, by way of additional remedy, it shall be lawful for the said Commissioners, whether any such action shall have been brought against any such owner or not, to require the payment of all or any part of such costs, charges and expenses from the person who shall then, or at any time thereafter occupy any such house, building or land, and in default of payment thereof by such occupier on demand by the said Commissioners, the same may be levied by distress and sale of the goods and chattels of such occupier in the same manner as any rate may be recovered from him.

158. Occupier not to be liable for more than the amount of rent due.

Provided always, and be it Enacted, That in no case, except as hereinafter mentioned, shall any occupier, being only the tenant of such premises, be liable to pay more money in respect of such costs, charges and expenses as aforesaid, than the amount of rent due from him at the time of the demand made upon him for such costs, charges and expenses, or which shall at any time after such demand, and notice not to pay the same to his landlord, accrue and become payable by him, unless he shall neglect or refuse, upon application made to him for that purpose, by or on behalf of the said Commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burthen of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which shall have since accrued, shall lie upon such occupier.

159. Occupiers may deduct payments from rent in certain cases.

And be it Enacted, That in every case in which any occupier of any house, buildings or lands, shall have paid any sum for levelling, making, paving or flagging any street, or for making or repairing any drain,

privy, cesspool or other work, in respect of his occupation of such house, buildings or lands, he shall be entitled to deduct from his rent such part of the amount so paid by him as is hereinafter specified ; (that is to say) if at the time of such work being done he is a tenant at will, or for any less term than *One* Year, he may deduct the whole amount paid by him ; if for *One* Year, and less than *Two* Years, he may deduct *Nineteen-twentieths* thereof; if for *Two* Years, and less than *Three* Years, he may deduct *Eighteen-twentieths* thereof; and so in the same proportion the amount which such occupier shall be entitled to deduct shall be less by *One-twentieth* part of the sum so paid by him for every additional year, according to the number of years unexpired of the term for which he is the tenant; but if such occupier is the tenant for a term of *Twenty* Years or more, he shall not be entitled to deduct from his rent any part of the sum so paid by him: Provided always, That any tenant under a lease containing a covenant for renewal thereof, shall be deemed a tenant for the full term to which his holding may be extended under such covenant; and that every tenant for a term depending upon a life or lives shall be deemed a tenant for such absolute term of years as shall be of the same value as such contingent term according to the Government Tables for the purchase of Life Annuities ; and every lessor being himself a lessee of any house, buildings or lands, from whose rent any part of the amount so paid to the said Commissioners shall have been deducted by his under-tenant, shall be entitled in like manner to deduct from the rent payable by him to his lessor such part thereof as, according to the provisions hereinbefore contained he would have been entitled to deduct from his rent had he been the occupier, and paid to the said Commissioners as aforesaid the sum so deducted from the rent payable to him: Provided also, That nothing herein contained shall be taken to affect any special contract made between any lessor and tenant or occupier of any houses, buildings or lands, respecting the payment of the costs and charges of levelling, making, paving or flagging any street, or of constructing, re-making or repairing any drains, privies, cesspools, or other works.

160. Unoccupied or unproductive property may be let to defray expenses.

And be it Enacted, That if any house, building or land abutting on the sides of any street or part of any street, not being a highway, which, or any part of which, shall have been levelled, formed, paved or flagged by the said Commissioners, or if any house or building, in respect of which any drain shall have been constructed, made or re-made by the said Commissioners, and the costs and expenses of which works are to be repaid to the Commissioners by the owners thereof in the manner hereinbefore provided, shall be unoccupied or unproductive, and the owner thereof shall for the space of *Two* Years neglect or refuse to contribute and pay his proportion of the costs, charges and expenses of levelling, making, paving or flagging such street, or the costs of constructing, making, or re-making such drain or other work, and the same shall

shall not have been recovered from the occupier thereof, it shall be lawful for the said Commissioners, at or after the expiration of *Three* Months' notice to that effect affixed or placed on any such house, building or land, to take possession of such unoccupied or unproductive house, building or land, and to fence off and let the same, or any part thereof, by any deed under their common seal, for such term, not exceeding *Ten* Years, as shall be agreed upon between the intended lessee thereof and the said Commissioners, and to appoint some person to deliver the possession of such house, building or land to such lessee; and every such lease shall effectually vest the legal estate in possession of the house, building or land comprised therein, in the lessee therein named for the term thereby expressed to be granted, and shall give such lessee a good title thereto against the owner thereof and all other persons whomsoever; and the rents of such house, building or land, shall be paid to the said Commissioners, who shall thereout, in the first place, pay the expenses of such fencing and letting, and in the next place, pay the sum due from such owner for his share of the costs, charges and expenses of levelling, making, paving or flagging such street, or constructing, making or re-making such drain or other work; and after payment thereof shall retain the surplus (if any) of such monies for the owner of such house, building or land, or his assignees or other legal representative.

161. Commissioners may allow time for repayment by owners of expenses of paving streets and making drains.

And be it Enacted, That where any street, not being a highway repairable by the inhabitants at large, shall have been levelled, made, paved or flagged by the said Commissioners, and the costs, charges and expenses whereof are to be repaid and reimbursed to the Commissioners by the owners of the adjoining properties in the proportions and in the manner hereinbefore provided, or in case any drain or other work shall have been constructed, made or repaired by the said Commissioners the costs of which are to be repaid to the said Commissioners by the owners thereof, it shall be lawful for the said Commissioners, and they are hereby required, in all such cases where the owner shall be only tenant for life of such premises, or where the amount of the sum to be repaid to the Commissioners shall be more than half the amount of the net annual value of such premises, and in any other cases of which the said Inspector shall approve, to allow time for the repayment of such costs, charges and expenses, and to receive the same by such instalments as the said Commissioners, under the circumstances of the case, shall consider equitable and just, but so that the same shall be repaid by annual instalments of not less than *One-twentieth* part of the whole sum originally due, with interest for the principal money from time to time remaining unpaid, after the rate of *Five Pounds* per centum per annum, during the period of forbearance; but all such sums remaining due, notwithstanding the said Commissioners shall have agreed to allow any time for the repayment thereof as aforesaid,

aforesaid, shall remain and be chargeable upon the several premises in respect of which the same were originally payable, and shall and may from time to time, at the expiration of the several times so allowed for repayment thereof be recoverable therefrom, and from the respective owners and occupiers thereof, both present and future, in like manner as such respective amounts might have been recovered and would have been recoverable if no such time or times had been allowed for repayment thereof.

162. Receiver of rents to be deemed the owner.

AND in order to prevent any dispute touching the word "owner," for all the purposes of this Act, whereby an owner is required to do any matter or thing under the provisions of this Act, or to be rated or pay any rates or monies; BE it Enacted, That the person receiving the rents of any property from the occupier thereof on his own account, or as trustee or agent for any other person, shall be deemed the "owner" of the same for all such purposes.

163. Commissioners to cause streets to be cleansed, and dust and ashes removed from the houses.

And be it Enacted, That the said Commissioners shall, with a due regard to the convenience and the preservation of the health of the inhabitants, cause all the streets, whether dedicated to the use of the public or not, together with the foot-pavements, from time to time to be properly swept and cleansed, and all dust, dirt, and filth of every sort which may be found thereon to be collected and removed therefrom, and shall cause all the soil, ashes, rubbish, and filth to be taken and carried away from the houses and premises of the inhabitants of the said town or district, at convenient hours and times, and shall cause all or any of the privies and cesspools within the said town or district to be emptied and cleansed in a sufficient and proper manner as shall be required; and the said Commissioners shall from time to time give public notice on what days and at what times in every week the said streets shall be swept, cleansed and watered, and such dirt, dust, night-soil, rubbish, filth and ashes carried away, and how and in what manner the same shall be carried away, and where the same shall be deposited, and shall give such orders and directions as to the said Commissioners shall appear necessary and proper, and it shall be lawful for the said Commissioners to purchase or hire any cart, carriage or other machines, and also any horse or horses, for the better executing and performing any of the above duties.

164. Refuse vested in the Commissioners.

And be it Enacted, That the dirt, dust, night-soil and filth to be so collected from the said streets, privies, sewers and cesspools, and all the dust, ashes and rubbish to be collected, taken and carried away from all and every of the houses or elsewhere within the said town or district, shall be the property of the said Commissioners, and are hereby

hereby vested in them, and the Commissioners shall have full power to sell and dispose of the same for the purposes of this Act, as they shall think proper, and the money arising from the sale thereof shall be applied for the purposes of the paving rate, and the person purchasing the same shall have full power and authority to take, carry away and dispose of the same for his own proper use and benefit.

165. Commissioners may water streets and provide wells, pumps, &c.

And be it Enacted, That it shall be lawful for the said Commissioners, as often as they shall think fit, to cause all or any of the streets within the said town or district to be watered, and for that purpose to contract with any Company for a supply of water, and, if necessary, to sink wells, and lay, erect, and place pipes, conduits and pumps in any of the said streets, or to provide any other apparatus proper for that purpose, and to remove and alter the same when and as the said Commissioners shall think proper.

166. Commissioners to appoint scavengers.

And be it Enacted, That it shall be lawful for the said Commissioners to appoint and employ a sufficient number of persons, or to contract with any Company or other person for the sweeping, cleansing and watering of the said streets within such town or district, and for removing of all ashes, rubbish, filth, and for the emptying of privies and cesspools, and such persons shall be called scavengers, and such scavengers or their servants shall, on such days, and at such hours, and in such manner as the said Commissioners shall from time to time appoint, sufficiently execute all such works and duties as they shall respectively contract or be employed to perform; and if any such scavenger fail to sweep and properly cleanse or water any street which he shall contract or be employed to water, or shall fail to clean out and empty any privy, cesspool or sewer at the time and in the manner appointed by the said Commissioners, or on the lawful request of any owner or occupier of any house or other tenement, or to collect or remove any dirt, ashes or rubbish which he shall contract or be employed to remove at the time and in the manner prescribed by the Commissioners for that purpose, or shall deposit any of such soil, dirt, ashes or rubbish in any other place than such as shall be appointed by the said Commissioners for that purpose, he shall, for every such offence, forfeit and pay a sum not exceeding *Five Pounds*.

Scavengers to perform duty under penalty.

167. Regulations to prevent accumulations of dung.

And be it Enacted, That if the dung or soil of any stable, cow-house or pig-sty, or other collection of refuse matter elsewhere than in any farm-yard, shall at any time be allowed to accumulate within the said town or district for more than *Fourteen* Days, or for more than *Seven* Days after a quantity exceeding a cubic yard shall have been collected, such dung, soil or refuse shall, if not removed within

Twenty-four Hours after notice from any officer of the said Commissioners, become vested in the said Commissioners, and it shall be lawful for them, or the person for the time being having the contract for doing so, to sell and dispose of the same as the property of the said Commissioners, and the money thence arising shall be applied to the purposes of the paving rate; and if any person shall allow or permit any dung, dirt, ashes or filth to accumulate within his dwelling-house for more than *Three* Days after the scavenger shall have applied to remove the same, such person, upon being lawfully convicted, shall be subject to a penalty not exceeding *Forty Shillings*, and not less than *Five Shillings*, to be recovered and applied as other penalties under this Act: Provided always, That if at any time a certificate, signed by the medical officer of health hereinafter authorized to be appointed, or by any *Two* legally qualified medical Practitioners, shall be presented to the said Commissioners, certifying that any accumulation of dung, soil or filth within the limits of the said town or district ought to be removed, as being to the prejudice of the health of the inhabitants, the Clerk to the said Commissioners shall forthwith give notice to the owner or reputed owner of such dung, soil or filth, to remove the same within *Twenty-four* Hours after such notice, and in case of failure to comply with such notice, or if no such owner can be found, the said dung, soil or filth shall thereupon become vested in the said Commissioners, and liable to be disposed of in the manner hereinbefore provided.

168. Penalty for obstructing scavengers.

And be it Enacted, That any occupier of any house or lands, or other person who shall refuse to permit such soil, dirt, ashes or rubbish to be taken away by the scavengers appointed by or contracting with the said Commissioners as aforesaid, or who shall obstruct the said scavengers in the performance of their duty, shall for every such offence forfeit and pay a sum not exceeding *Five Pounds*.

169. Penalty on persons other than scavengers removing dirt.

And be it Enacted, That every person other than the Scavengers for the time being, or other person acting for or in their behalf, who shall collect or carry away any night-soil, dirt, ashes, rubbish or filth from any street or house, or other place within the said town or district, shall forfeit and pay a sum not exceeding *Forty Shillings* for the first offence, *Five Pounds* for the second, and *Ten Pounds* for the third and every following offence, *One-half* the penalty in every case to be paid to the Informer, and *One-half* to the Scavengers employed by or contracting with the said Commissioners to take away the same.

170. Penalty for conveying offensive matter at improper times.

And be it Enacted, That every person who within any town or district shall empty or begin to empty any privy between the hours of *Five* in the morning and *Twelve* at night, or remove along any thoroughfare

roughfare any night-soil, soap-lees, ammoniacal liquor, or other such offensive matter between the hours of *Five* in the morning and *Twelve* at night, or who shall at any time use for any such purpose any cart or carriage not having a proper covering, or who shall wilfully or carelessly slop or spill any such offensive matter in the removal thereof, or who shall not carefully sweep and clean every place in which any such offensive matter shall have been placed, slopped or spilled, shall forfeit a sum not exceeding *Forty Shillings*, and in default of the apprehension of the actual offender, the owner of the cart or carriage employed for any such purpose shall be deemed to be the offender.

171. Stagnant pools of water and other annoyances to be removed.

And be it Enacted, That no person shall suffer any waste or stagnant water to remain in any cellar or other place within any house, or on any ground belonging to or occupied by him, so as to be a nuisance to any person, or injurious to health, and every person who shall suffer any such water to remain for *Twenty-four* Hours after receiving notice from the Surveyor or other officer to the Commissioners to remove the same, shall for every such offence be liable to a penalty not exceeding *Forty Shillings*; and every person who shall allow the contents of any privy or cesspool to soak or flow therefrom to the annoyance of the occupiers of any adjoining property, shall for every such offence be liable to a like penalty; and it shall be lawful for the said Commissioners to drain and cleanse out any stagnant pools of water, and to remove any such annoyance as aforesaid, and for that purpose to enter by their officers and workmen into and upon any land and premises at all reasonable times, and to do all necessary acts for any of the purposes aforesaid, and to charge the costs and expenses incurred thereby upon the owner or occupier of the premises upon which such offence shall be committed.

172. Commissioners may require owner of house to provide privy and ash-pit for the same.

And be it Enacted, That it shall be lawful for the said Commissioners to require the owner of any house to which no sufficient privy or ash-pit is attached to provide such ash-pit and proper privy to the same, in such situation, not disturbing any building already erected, and with such proper door and covering to such privy, and also such fit and sufficient ash-pit, and in such situation, not disturbing any building already erected, as the said Commissioners shall consider requisite for the use of the inmates and occupiers thereof: provided that a privy and ash-pit, or two or more privies and ash-pits, may, with the approbation of the said Commissioners, be used in common by the inmates and occupiers of two or more such houses.

173. Owners of houses to keep privies and ash-pit in repair.

And be it Enacted, That the owner of every house now built or hereafter to be built, shall keep the privy and ash-pit belonging to such house, or used by the inmates or occupiers thereof, in good repair,

repair, to the satisfation of the said Commissioners; and if the owner of any house shall not provide the same with a privy, with such door and covering to the same, and with such ash-pit as aforesaid, or shall not repair the said privy and ash-pit to the satisfaction of the said Commissioners, within *One* Month next after notice in writing for that purpose from the Surveyor to the Commissioners shall have been given to such owner, or left for him at his usual or last known place of abode, or upon or affixed to the premises, in respect of which the same shall be given, every owner so making default, shall for every such default forfeit any sum not exceeding *Five Pounds*, and any further sum not exceeding *Ten Shillings* for every week during which such default shall in anywise continue unamended.

174. Public conveniences to be formed.

And be it Enacted, That it shall be lawful for the said Commissioners to build, form and erect such urinals, necessaries and other similar conveniences in such situations as they shall deem proper for the accommodation of the public, and to defray the expense thereof, and any damage occasioned to any person by the erection thereof, and the expense of keeping the same in good order, out of the monies to be collected for the purposes of the paving rate.

175. Appointment of medical officer of health.

AND whereas the health of the population, especially of the poorer classes, is frequently injured by the prevalence of epidemical and other disorders, and the virulence and extent of such disorders is frequently due and owing to the existence of local causes which are capable of removal, but which have hitherto frequently escaped detection from the want of some experienced person to examine into and report upon them, it is expedient that power should be given to appoint a duly qualified medical practitioner for that purpose; BE it therefore Enacted, That it shall be lawful for the said Commissioners to appoint, subject to the approval of One of Her Majesty's Principal Secretaries of State, a legally-qualified medical practitioner, of skill and experience, to inspect and report periodically on the sanatory condition of any town or district, to ascertain the existence of diseases, more especially epidemics increasing the rates of mortality, and to point out the existence of any nuisances or other local causes which are likely to originate and maintain such diseases and injuriously affect the health of the inhabitants of such town or district, and to take cognizance of the fact of the existence of any contagious disease, and to point out the most efficacious modes for checking or preventing the spread of such diseases, and also to point out the most efficient means for the ventilation of churches, chapels, schools, registered lodging-houses and other public edifices within the said town or district, and to perform any other duties of a like nature which may be required of him; and such person shall be called the Medical Officer of Health for

for the town or district for which he shall be appointed; and it shall be lawful for the said Commissioners to pay to such officer such salary as shall be approved of by One of Her Majesty's Principal Secretaries of State.

176. Medical Officer of health to perform post-mortem examination on order of Coroner.

And be it Enacted, That whenever it shall be lawful for any Coroner to summon medical witnesses and to direct the performance of a post-mortem examination, under the provisions of an Act passed in the Session of Parliament held in the sixth and seventh year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Attendance and Remuneration of Medical Witnesses at Coroner's Inquests," it shall be lawful for such Coroner to issue his order for the attendance of the medical officer of health for the town or district within which any such inquest shall be held, and to direct the performance by such medical officer of a post-mortem examination, with or without analysis of the contents of the stomach or intestines, without fee or reward; and any provisions contained in the said Act for imposing any penalty on any medical practitioner for any disobedience of any order of such Coroner shall be taken to extend and apply to such officer of health.

177. Houses to be whitewashed and purified.

And be it Enacted, That when it shall appear to the said Commissioners, either from the report of the officer of health or otherwise, that any house or part of any house, or the premises adjoining to any house, is or are in such a filthy or unwholesome condition that the health of the inmates or of the public is thereby affected or endangered, or that the whitewashing, cleansing or purifying of any house or part thereof would tend to prevent or check infectious or contagious disease, which may have occurred therein, it shall be lawful for the said Commissioners from time to time, if they shall think it expedient, to order the owner or occupier of any house or dwelling or part thereof, within any town or district, to whitewash, cleanse and purify the same in such manner and within such time as the said Commissioners may deem reasonable; and if such owner or occupier shall not comply with such order, he shall forfeit and pay any sum not exceeding *Ten Shillings* for every day's neglect thereof, and it shall be lawful for the said Commissioners to cause such house or dwelling or any part thereof to be whitewashed, cleansed and purified, and to recover the expense thereof from such owner or occupier; provided that when, on account of the poverty of such owner or occupier, or other special circumstances, it shall appear expedient to the said Commissioners to pay the whole or any part of such expense, it shall be lawful for them so to do.

178. Appointment of Inspector of Nuisances.

And be it Enacted, That it shall be lawful for the said Commissioners, and they are hereby required to nominate and appoint one

 or

or more persons to superintend and enforce the due execution of all duties to be performed by the scavengers appointed under this Act, and to report to the said Commissioners all breaches of the bye-laws, rules and regulations of the said Commissioners, and to point out the existence of any nuisances, and such person shall be called "The Inspector of Nuisances;" and the Commissioners shall require such inspector to provide and keep a book, in which shall be entered all complaints made by any inhabitant of the town or district of any deficiency in the supply of water, and of any infringement of the provisions of this Act, or of the bye-laws, rules and regulations made by the said Commissioners for the preservation of due order and cleanliness, or for the suppression of nuisances, as may be required by the said Commissioners, and such Inspector shall forthwith inquire into the truth or otherwise of such complaints, and report upon the same to the said Commissioners at their next meeting, and such report and the order of the said Commissiouers thereon, shall be entered in the said book, which shall be kept at the office of the said Commissioners, and shall be open at all reasonable times to the inspection of any inhabitant within such town or district; and it shall be the duty of such Inspector, subject to the direction of the said Commissioners, to make complaints before any Justice, and take legal proceedings for the punishment of any person or persons for any offence under this Act, or under any bye-laws made by virtue thereof.

179. For the regulation and inspection of lodging-houses.

AND whereas the keepers of lodging-houses of an inferior description, for the accommodation of mendicants, strangers, and other persons for the night or other short periods, allow the same to be crowded by receiving more lodgers than such lodging-houses are adapted to contain, with a due regard to health, and allow persons affected with fever and other diseases of a contagious nature to remain in them till infection has been communicated to other lodgers, and receive other lodgers into the apartments and beds from which diseased persons have been removed without any purifying or other disinfecting process; BE it Enacted, That no keeper of any such lodging-house within the said town or district which shall be rated to the relief of the poor in a less sum than *Fifteen Pounds*, and which shall not be a public-house or inn licensed by Justices for the sale of spirituous liquors, shall accommodate or receive such lodgers, unless such house shall have been registered in a book to be kept by the said Commissioners for that purpose; and it shall be lawful for the said Commissioners, from time to time, to fix and determine the number of lodgers who may be accommodated in each such lodging-house; and the names of the keepers of such lodging-houses shall be recorded by the said Commissioners in a register to be kept for that purpose; and such Commissioners may order that a ticket containing the number of lodgers

lodgers for which the house is registered, and any rules or instructions of the said Commissioners regarding health, cleanliness or ventilation, shall be hung up or placed in a conspicuous part of each room into which lodgers are received; and the keepers of all such lodging-houses shall at all times give access thereto when required by any person or persons appointed by the said Commissioners, for the purpose of making an inspection and inquiry, or for the purpose of performing any disinfecting process which the Commissioners may order; and if any keeper of such lodging-houses shall offend against any of these provisions, he shall be liable for each such offence to a penalty not exceeding *Forty Shillings*.

180. Existing slaughter-houses to be registered.

And be it Enacted, That every place within any town or district which shall be used as a slaughter-house or knacker's yard, shall, within *Three* Months after the day when this Act shall be in full force and operation within any such town or district, be registered by the owner or occupier thereof, at the office of the said Commissioners, under the penalty of a sum not exceeding *Five Pounds* for such offence, and a penalty of *Ten Shillings* for every day after the first day during which such place shall be used as a slaughter-house or knacker's yard without having been so registered.

181. Officers may enter and inspect slaughter-houses, &c.

And be it Enacted, That it shall be lawful for every inspector of nuisances, or other officer appointed by the Commissioners for that purpose, and he is hereby authorized and empowered at all times in the day, with or without any servants or assistants, to enter into and inspect any house or place whatsoever now kept or used, or at any time hereafter to be kept or used for the slaughtering or killing of cattle intended for the food of man, and also any building, shed, yard or place belonging thereto, and then and there to examine, search for, and see if any cattle, or the carcase of any such cattle, is or are deposited there, and in case such officer as aforesaid shall find any cattle, or the carcase or part of the carcase of any such cattle which shall appear to be unsound, or unwholesome, or not fit for the food of man, or if any such officer shall find any such meat or fish hawked about or exposed for sale in any place within such town or district by any person whatsoever, it shall be lawful for such officer to seize, take and carry away, or direct the same to be seized, taken and carried away by any servant or assistant for the purpose of being brought forthwith before any Justice of the Peace, who shall order the same to be further inspected and examined by competent persons; and in case upon such inspection and examination such cattle, carcase, or part of a carcase, or fish, shall be found and be declared to be unsound or unwholesome, or not fit for the food of man, the said Justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same from being exposed for

sale or used for the food of man; and in case the owner or occupier of any house or place kept or used for slaughtering or killing of cattle, or of any building, shed, yard or place belonging thereto, or any other person shall refuse, obstruct or hinder such officer from entering into and inspecting the same, and examining, seizing, taking, carrying away or destroying any such carcase, or part of a carcase, which shall so appear and be found, declared and adjudged to be unsound and unwholesome or unfit for the food of man, every such owner or occupier, or person so offending, shall forfeit a sum not exceeding *Five Pounds* for each offence.

182. Justices may order nuisances to be abated.

And be it Enacted, That if any candle-house, melting-house, melting-place or soap-house, or any boiling-house for offal, or any manufactory or other building, place, or matter erected, made or commenced to be carried on in any town or district after the provisions of this Act shall have been ordered to be in full force and operation therein, shall be certified to the Commissioners by the officer of health, or any Two legally qualified medical practitioners, to be a nuisance and injurious to the health of the inhabitants, the Commissioners shall direct complaint to be made before any Justice; and it shall be lawful for any such Justice to summon the person by or on whose behalf such nuisance is carried on before any Two Justices, and such Justices shall inquire into such complaint; and it shall be lawful for them, by an order in writing under their hands, to direct and order the person by or on whose behalf such nuisance is carried on, to discontinue or remedy the same within such time as to them shall appear expedient: Provided always, that if it shall appear to such Justices that, in carrying on the business complained of, the best means then known to be available for mitigating the injurious effects of such business have not been adopted, it shall be lawful for them to suspend their final determination, upon condition that the person so complained against shall undertake to adopt within a reasonable time such means as the said Justices shall find to be practicable, and order to be carried into effect, for mitigating or preventing the injurious effects of such business.

183. Penalty for disobedience of Justices' order.

And be it Enacted, That if any such nuisance as aforesaid shall not be discontinued or remedied within such time as shall be ordered by the said Justices, the person by or on whose behalf such nuisance is carried on, kept or made, shall be liable to a penalty not exceeding *Five Pounds* for every day during which such nuisance shall be continued or unremedied after the expiration of such time as aforesaid: Provided always, That when any person who shall think himself aggrieved by any such order shall, according to the provisions contained in this Act, appeal against any such order, such person shall not be liable to discontinue or remedy the nuisance mentioned therein,

or

or to pay any penalty until after the expiration of *Five* Days after the determination of such appeal and the confirmation of such order, unless such appeal shall cease to be prosecuted.

184. Commissioners may make bye-laws.

And be it Enacted, That it shall be lawful for the said Commissioners, and they are hereby required from time to time to make bye-laws as they shall think fit, for all or any of the purposes following; (that is to say),

For preventing nuisances and annoyances in any streets, or near thereto, and effecting cleanliness therein:

For making regulations for registering and inspection of slaughter-houses and knackers' yards, and for keeping the same in a cleanly and proper state, and for removing filth therefrom at least *Once* in every *Twenty-four* Hours, and for requiring that they shall be provided with a sufficient supply of water.

For regulating the manner of keeping swine, and preventing the keeping thereof within any dwelling-house, and for describing the limits in such town or district within which it shall be lawful to keep the same.

For the punishment of persons selling unwholesome meat, and for seizing and condemning the same:

For regulating the duties of scavengers, and for regulating the management of public privies:

For making regulations for the registering of lodging houses, and for maintaining cleanliness therein, and keeping them in a wholesome condition:

For laying down rules for cleansing filthy and unwholesome dwellings:

And to ascertain and fix what pecuniary penalties shall be incurred by persons breaking such laws:

Provided always, That no such last-mentioned penalty shall exceed, for any one offence, the sum of *Five Pounds*, and in the case of a continuing nuisance the sum of *Ten Shillings* for every day during which such nuisance shall be continued or unremedied.

185. Bye-laws to be approved by Secretary of State, and published in newspapers.

And be it Enacted, That no bye-law made under the powers for that purpose herein last contained shall be of any force until the same shall have been sent to One of Her Majesty's Principal Secretaries of State, and his approbation thereof signified by his signing the same; nor until after the expiration of *Forty* Days after the same shall have been published *Once* in *Two* Newspapers circulating within such town or district, and a copy of any such bye-laws, with a delaration thereon,

Proof of bye-laws.

thereon, signed by the Clerk to the said Commissioners, that the same have been approved by One of Her Majesty's Principal Secretaries of State, and published in *Two* Newspapers circulating within the town or district, with the date of such publication, shall be received as evidence of such bye-laws, and of the approval and publishing thereof as aforesaid, in all courts of law and equity, and before all Justices.

186 Bye-laws to be printed.

And be it Enacted, That all bye-laws made in pursuance of this Act shall be printed, and a copy thereof shall be affixed and continued in the office of the said Commissioners, and copies thereof shall be delivered to any person who may apply for the same, on payment of such sum as the said Commissioners shall think fit, not exceeding *Sixpence*.

187. How breaches of bye-laws to be punished.

And be it Enacted, That all the provisions hereinafter contained relative to offences against this Act punishable upon summary conviction shall be taken to apply to all offences committed in breach of any bye-law made by the said Commissioners by virtue of this Act.

188. Commissioners to order costs of prosecutions.

And be it Enacted, That it shall be lawful for the said Commissioners to direct any prosecution for any public nuisance whatsoever which shall be permitted or suffered within any town or district, and to order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, and to direct and order the expenses of such prosecution or other proceedings to be paid and borne by and out of the general rate authorized to be imposed under the provisions of this Act.

189. Penalty for letting certain underground rooms or cellars for dwellings.

AND for the purpose of discouraging and prohibiting the use of buildings unfit for dwellings ; BE it Enacted, That from and after the time of this Act coming into full force and operation within any town or district, it shall not be lawful to let separately to hire as a dwelling, nor to occupy or suffer to be occupied as such, any room or cellar of which the surface of the floor is more than three feet below the surface of the footway of the nearest street, unless there be an area not less than three feet wide in every part from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back or external side thereof, and extending the full length of such side, nor unless such area, to the extent of at least Five Feet long and Two Feet Six Inches wide, be in front of the window of such room or cellar, and be open or covered only with open iron gratings, nor unless there be in such room or cellar an open fire-place, with a proper flue therefrom and a window opening at least Nine superficial Feet in area, which window opening shall be fitted with a frame filled in with glazed sashes, of which at the least Four-

Four-and-a-half superficial Feet shall be made to open for ventilation; and if any person wilfully let or suffer to be occupied, or occupy any under-ground cellar or room contrary to the provisions of this Act, after notice shall have been given to him of the existence, nature and consequences of this enactment, then, on conviction thereof before *Two* Justices of the Peace, such person shall be liable to forfeit, for every day during which such cellar or room shall be so occupied, a sum not exceeding *Twenty* Shillings.

190. Act not to affect nuisances at common law.

And be it Enacted, That nothing in this Act contained shall be construed to render lawful any act or omission on the part of any person which is, or but for this Act would be deemed and adjudged to be a nuisance at common law, nor to exempt any person guilty of a nuisance at common law from prosecution or action in respect thereof, according to the forms of proceeding at common law, nor from the common law consequences upon a conviction thereof: Provided always, That if any person convicted of an offence under this Act shall have paid the whole amount adjudged to be paid under such conviction, and the costs thereof, in every such case he shall be released from all further or other criminal proceedings, for the same offence.

191. Inspector to report on the best mode of supplying water.

AND whereas it is of essential importance that all the inhabitants of of every town and district made subject to this Act should be supplied with good and wholesome water for domestic purposes, to the utmost extent that the local and other circumstances of such town or district will permit, and especially that the poorer inhabitants thereof should be so supplied with water: And whereas supplies of water are also required for the efficient and wholesome cleansing of the streets, and main and other sewers and drains which may be constructed or maintained under the provisions of this Act; BE it Enacted, That when any town or district shall be made subject to this Act, it shall be the duty of the Inspector to make diligent inquiries and report upon the sufficiency or insufficiency of the then existing supplies of water, and, if necessary, he shall state his opinion as to the best mode or plan which can be adopted for increasing the supplies of water for the purposes aforesaid; and he shall in every such case state in such report how far any existing companies are able and willing to extend their supplies of water, or upon what terms they are willing to contract with the Commissioners for supplies of water, and also the ability of such Companies to supply such water; and, if necessary, he shall also state in such report what streams of water, or other water in the vicinity of such town or district, can be made available for supplying water by the construction of proper works, or by improving and enlarging the works of existing water companies, or any other water-works; and the Inspector, after having drawn up such report, shall send a copy thereof

to the Commissioners, and also to the proprietors of any such existing water-works as aforesaid as he shall see fit.

192. Commissioners may make contracts with Water Companies, purchase works, and make leases of the same.

AND for the purpose of carrying such plan and report into effect; BE it Enacted, That it shall be lawful for the said Commissioners, with the consent and approbation of the Inspector, and subject to the restrictions hereinafter contained, to make contracts with any existing water company, or other person for the supplying of the town or district, or any part thereof, with water for the purposes of this Act, and with the like consent to agree for the absolute purchase of any water-works, waters, lands, tenements, easements, hereditaments, fixtures, machinery or other property, or to take a lease thereof for any term of years, and subject to such conditions as shall be agreed upon between the parties; and also with the like consent and approbation to grant a lease to any existing water company or other person, for any term not exceeding *Twenty-one* Years, of any waters, lands, tenements, easements, rights, privileges and advantages belonging to or acquired by, or which may belong to or be acquired by the Commissioners under any of the powers and authorities in this Act contained, so as to enable such water company or other person the more effectually and efficiently to procure and supply water in pursuance of any contract or agreement which may be made between such water company or other person and the said Commissioners; and every such lease so to be granted by the said Commissioners may be made subject to such conditions and stipulations as to supplying water for the purposes of this Act, or any or either of them, as may be agreed upon between the respective parties thereto as they shall think fit: Provided always, That no lease or contract made in pursuance of the powers hereinbefore contained shall be valid or effectual for any purpose whatever, unless the Inspector's approval of the same shall be testified by writing indorsed on such lease or contract under his hand.

193. Power to continue the use of existing water-works, or to dispose of the same.

And be it Enacted, That when any existing water-works, pipes, reservoirs and other works belonging to any Trustees under any local Act for supplying any town or district, or any part thereof, with water, shall become vested in the said Commissioners under the provisions hereinbefore contained, it shall be lawful for the said Commissioners to continue to supply water to such persons as have been accustomed to receive the same upon such terms as shall have previously existed, or to enlarge the said works and extend the supply to any other parts of such town or district, under and by virtue of any of the powers herein contained for obtaining a supply of water, and to connect the same with any works hereby authorized to be made, or they may discontinue the use of all or any part thereof, or dispose of the same as they may see fit.

And

194. Commissioners may purchase streams of water, land, &c.

And be it Enacted, That it shall be lawful for the said Commissioners and they are hereby empowered to contract and agree with any person willing to dispose of the same, for the purchase, upon such terms and for such consideration as shall be agreed upon between them, either by absolute purchase, or by payment of a certain annual sum for the use of the same, of the whole or any part of any private streams of water, ponds, springs, rivulets or other watercourses, or of any rights therein, and for the purchase of any land required to be taken and used in such places as shall be deemed eligible, for the purpose of obtaining water from springs, or by sinking of wells, and for protecting such springs or wells from injury and deterioration, and for making and providing reservoirs, tanks, aqueducts and other buildings, works and conveniences, or for making convenient roads or ways to the said works, or for any other purpose connected with the said works which the said Commissioners may find necessary for the purpose of obtaining and protecting such supply of water as aforesaid; and for the purpose of making any such purchase, such of the clauses of "The Lands' Clauses Consolidation Act 1845," as are applicable to the purchase of lands by agreement and for making a good title thereto shall be taken to apply.

195. Water may be taken from public rivers.

AND whereas supplies of water may often be obtained from rivers and other streams without materially injuring or diminishing the supply of water for any public or private use to which the same may have been appropriated; BE it Enacted, That for the purpose of carrying any such plan and report into effect, it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, with the approval and consent of One of Her Majesty's Principal Secretaries of State obtained for the purpose, to take and draw off a supply of water from any such river or stream, as hereinafter is provided.

196. Report to be approved of by the Secretary of State before any powers to enter on lands, &c., can be exercised.

And be it Enacted, That if it shall be necessary, for the purpose of carrying into execution the mode or plan of supplying water recommended by the Inspector in his said report, that the Commissioners should avail themselves of any of the powers hereinafter contained, which authorize the Commissioners or their lessees to take or enter upon lands without the consent of the owners and occupiers thereof for the purpose of constructing, improving or enlarging any water-works as aforesaid, then and in every such case the Commissioners shall cause a map or plan to be prepared on a scale of not less than *One* Inch to *Sixty-six* Feet, describing the sources from which any supplies of water are intended to be procured, the situation of the intended reservoirs, tanks and other water-works, and the line and course of any intended aqueducts, conduits, tunnels and pipes,

or other channels for conveying water to or from the said intended water-works, and the lands through which the same respectively are intended to be carried, together with a book of reference containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers respectively of any lands intended to be taken for the purpose of erecting any works thereon, or to be used for the purpose of carrying any tunnels, pipes, channels or water-works through the same; and one copy of such plan and book of reference shall be deposited in the office of the said Commissioners, and shall be open at all reasonable times there to the inspection of all parties interested therein, and another copy of such plan and book of reference shall be furnished to the said Inspector; and notice of such intended works, and of the place in which such plan is deposited, shall be given by the said Commissioners to all the parties interested in any lands intended to be taken or used for any of the above purposes, or through which it is intended to carry any tunnel, pipes, conduits or other works, or to such of the said parties as shall, after diligent inquiry, be known to the said Commissioners; and such notice shall also be published in *One* or more newspapers circulating within such town or district in *Two* successive Weeks.

197. Inquiry by Inspector.

And be it Enacted, That as soon as may be after the expiration of *One* Month from the time of publication of such notices, the said Inspector shall give notice that he will attend for the purpose of viewing such lands, and otherwise inquiring into the matter, such notice to be published within such town or district in such manner as shall appear to the said Inspector to be most convenient, and for that purpose shall hold a public inquiry within the said town or district at the time and place to be named in the notice; and after such proof as is satisfactory to the said Inspector, that the notices have been duly given, and the plan and book of reference duly made and deposited as aforesaid, the said Inspector shall inquire into the inconvenience likely to be sustained by any private individuals whose lands are required to be taken or used, and as to the public utility and advantage of such intended works, and whether or not they are of such public usefulness to the town or district, and so necessary for the obtaining a due supply of water for the use of the inhabitants thereof, that the taking of such lands, and the making and constructing of such works, and the laying down of such pipes, and making such tunnels and channels for water through the lands of the persons named in such book without their consent ought to be sanctioned; and all persons who shall deem themselves interested in the matter, or likely to be aggrieved thereby, shall be entitled to be heard by themselves, their counsel, attornies, agents and witnesses before such Inspector, and such Inspector shall report the evidence taken before him, and the

Plans

Plans and Book of Reference, and his opinion thereon, to One of Her Majesty's Principal Secretaries of State; and thereupon it shall be awful for such Secretary of State, if he shall think fit, to authorize the taking of the lands specified in such Plan, and required to be taken or used for forming the reservoirs, laying down the pipes, and executing the other works described in such Plan, without the consent of the owners and other persons interested therein; and when and as soon as the said Secretary of State shall attach his signature to the said Plan and Book of Reference, or to a true copy thereof, signifying his approval thereof, then the Commissioners may proceed to carry such intended Plan into execution.

198. Certain provisions of Lands' Clauses Consolidation Act incorporated.

And be it Enacted, That the following clauses contained in "The Lands' Clauses Consolidation Act 1845," that is to say, all and every clause and clauses, with respect to the construction of that Act and of Acts to be incorporated therewith; all and every clause and clauses with respect to the purchase of lands by agreement; all and every clause and clauses with respect to the purchase of lands, otherwise than by agreement; all and every clause and clauses with respect to the purchase-money or compensation coming to parties having limited interests or prevented from treating or not making title; all and every clause and clauses with respect to the conveyances of lands; all and every clause and clauses with respect to the entry upon lands; all and every clause and clauses with respect to such portions of intersected land; all and every clause and clauses with respect to copyhold lands; all and every clause and clauses with respect to any such lands being common or waste land; all and every clause and clauses with respect to lands subject to mortgage; all and every clause and clauses with respect to lands charged with any rent-service, rent-charge or chief or other rent, or other payment or incumbrance not thereinbefore provided for; all and every clause and clauses with respect to lands subject to leases; all and every clause and clauses with respect to interests in lands which have by mistake been omitted to be purchased; and all and every clause and clauses with respect to lands required by the promoters of the undertaking, but which shall not be required for the purposes thereof; and every such clause and clauses as aforesaid of the said Lands' Clauses Consolidation Act shall form part of this Act, and be applicable for the purpose of enabling the Commissioners the more effectually to carry into execution the objects of this Act, and to purchase, take and enter upon any lands whatsoever which they are authorized by this Act to purchase, take and enter upon.

199. Commissioners not to supply water to districts supplied by Water Companies.

AND whereas it is expedient that existing Water Companies and other persons affording a sufficient supply of water to the inhabitants of any town or district should be protected in the enjoyment of the profit and advantages which may accrue to them by the sale of such water;

water; BE it Enacted, That it shall not be lawful for the Commissioners to lay down any pipes for the purpose of distributing water in any street within any town or district in which street or place any such Water Company or other person shall have previously to the day when this Act came into operation within such town or district, or within *Six* calendar Months afterwards, laid down a main or pipe throughout such street in such manner as to enable all the inhabitants of such street to obtain a good supply of water, and so long as such Water Company or other person shall continue in manner aforesaid to supply the inhabitants of any street with water, it shall not be lawful for the Commissioners to distribute water in such street or place.

200. Capital of certain Water Companies may be increased.

AND whereas certain Water Companies established under the provisions of Acts of Parliament, may be desirous of extending and improving their water-works, or of forming new water-works, and of obtaining further supplies of water, to enable them to make contracts with the Commissioners for supplying water under the provisions in this Act contained, but such Companies may be unable, under the powers of their respective Acts of Parliament, to raise a sufficient capital to pay the necessary expenses of such extended or improved water-works; BE it Enacted, That in every such case, and for the purposes aforesaid, it shall be lawful for One of Her Majesty's Principal Secretaries of State, if he shall think fit, by an order under his hand, to authorize and empower any such Company as aforesaid to raise, under the powers of their respective Acts of Parliament such an amount of capital, in addition to the amount of capital which such Company may by such Acts be authorized to raise, as he shall deem to be expedient and necessary; and every such order shall specify the additional amount of the capital which may be raised by any such Company.

201. New shares to be considered same as original shares.

And be it Enacted, That the capital so to be raised by the creation of new shares shall be considered as part of the general capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares or non-payment of calls, or otherwise, as if it had been part of the original capital, except as to the times of making calls for such additional capital, and the amount of such calls, which respectively, it shall be lawful for the Company from time to time to fix as they shall think fit.

202. If old shares at premium, new shares to be offered to the shareholders.

And be it Enacted, That if at the time of any such augmentation of capital taking place by the creation of new shares, the then existing shares be at a premium, or of greater actual value than the nominal value thereof, then, unless it be otherwise provided by the Act of the company, the sums so to be raised shall be divided into shares of such amount

amount as will conveniently allow the same to be apportioned among the then shareholders, in proportion to the existing shares held by them respectively; and such new shares shall be offered to the then shareholders in the proportion aforesaid; and such offer shall be made by letter under the hand of the Secretary, Clerk or other officer of such Company, given to or sent by post, addressed to each shareholder, or left at his usual or last place of abode.

203. Shares to vest in the parties accepting; otherwise to be disposed of by the directors.

And be it Enacted, That the said new shares shall vest in and belong to the shareholders who shall accept the same, and pay the value thereof to the Company, at the time and by the instalments which shall be fixed by the Company; and if any shareholder fail for *One Month* after such offer of new shares to accept the same, and pay the instalments called for in respect thereof, it shall be lawful for the Company to dispose of such shares in such manner as they shall deem most for the advantage of the Company.

204. If not at a premium, to be issued as Company think fit.

And be it Enacted, That if at the time of such augmentation of capital taking place, the existing shares be not at a premium, then such new shares may be of such amount, and may be issued in such manner and on such terms as the Company shall think t.

205. Commissioners empowered to construct water-works &c.

And be it Enacted, That it shall be lawful for the said Commissioners, subject to the restrictions herein contained, from time to time to make, construct, lay down, maintain, alter or discontinue such water-works, steam-engines, water-wheels, reservoirs, cisterns, tanks, aqueducts, cuts, channels, conduits, engines, waste-gates, stop-gates, stop-cocks, sluices, banks, bridges, pipes, tunnels, machinery, and other works, upon the lands hereby authorized to be purchased and taken by the said Commissioners, as shall be necessary or proper for obtaining water and supplying the same to the inhabitants of any such town or district.

206. Commissioners not to deviate beyond the limits of deviation marked on the plan.

Provided always, and be it Enacted, That the said Commissioners, in erecting and making the said water-works, and the said reservoirs, cuts, channels, aqueducts, tunnels and other works, upon lands taken under the compulsory powers hereinbefore contained, shall not deviate to any greater distance than the limits of the deviation as marked on the said plan, nor into the lands of any person not mentioned in the said Book of Reference, without his previous consent in writing, unless the name of such person shall have been omitted by mistake, and the fact that such omission proceeded from mistake, and that such deviation ought to be allowed, shall be certified under the hand of such Inspector.

207. Commissioners not to appropriate waters without the consent of the owners.

Provided always, and be it Enacted, That nothing in this Act contained shall be construed or taken to empower, or make it lawful for the said Commissioners, without the consent in writing of the owner or other persons having right therein, to take, appropriate, divert, or use the water of any river, brook, or stream used for the supply of any mill, machinery, or other works, except the flood or surplus water thereof, which may be more than sufficient for the supply of any mills or other works situate on the line of such river, brook or stream, nor without leaving a sufficient supply of the water of such river, brook or stream for the purposes of irrigation of any lands, and for the domestic use, and the use of the cattle of the owners and occupiers of the several estates through which the same shall respectively flow, in the same manner and to the like extent as the same has been heretofore used, and for every other purpose for which the same may have been legally appropriated.

208. Extent of compulsory powers.

Provided also, and be it Enacted, That nothing in this Act contained shall authorize or empower the said Commissioners, or their lessees, by virtue of the compulsory powers of purchase hereinbefore contained, except in the case of any land expressly taken for forming any reservoir, or erecting any steam-engine, or other works thereon, to acquire or obtain any greater right or interest in any lands or premises, through or within which any of the said pipes, culverts, aqueducts or tunnels are intended or may be required to be laid, than a right of laying the said pipes, culverts, aqueducts or tunnels therein, and of entering thereon from time to time when requisite to renew, amend, repair, or examine the same.

209. Powers to use adjoining lands for temporary purposes.

And be it Enacted, That it shall be lawful for the said Commissioners, subject to the restrictions in this Act contained, to enter upon the lands of any corporation, or person adjoining to or being within the distance of *One hundred* Yards of the works by this Act authorized to be made, or any part thereof, and not being a garden, orchard plantation or ground planted and set apart as a nursery for trees, for the purpose of depositing upon such lands, or upon any part thereof, any soil, gravel, clay, sand, lime, bricks or other materials, or for other purposes connected with the formation of the said works, without making any previous payment, tender or deposit, they the said Commissioners doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation or temporary damage of the said lands, to the owners and occupiers thereof, from time to time, and as often as any such temporary occupation shall be taken, or any such temporary damage shall be done by the said Commissioners, and making compensation to the owners also for the permanent injury

Compensation to be made.

(if

(if any) to such lands; every such compensation, in case the parties differ about the same, shall be settled and recovered in manner provided by the said Lands' Clauses Consolidation Act 1845, as extended to this Act for determining the amount of the compensation to be paid for lands taken under the provisions thereof.

210. Company to give notice previous to such temporary possession.

Provided always, and be it Enacted, That before it shall be lawful for the said Commissioners to make such temporary use as aforesaid of the lands adjoining or lying near the said works, the said Commissioners shall and they are hereby required to give *Fourteen* Days notice of such their intention to the owner and occupiers of such lands, and to separate and set apart by sufficient fences so much of the lands as shall be required to be used as aforesaid from the other lands adjoining thereto.

211. Commissioners, before entering on such lands, to agree with owner or occupier for the payment of a rent for same.

Provided always, and be it Enacted, That the said Commissioners shall, before entering upon any such adjoining lands for the purposes aforesaid, if required by the owner or occupier of such lands, agree with such owner or occupier for the payment of a certain and fixed annual rent in respect thereof, during the continuance of such temporary occupation, the amount of such rent, in case the parties differ in opinion thereon, shall be settled by arbitration in the manner provided by the said Lands' Clauses Consolidation Act 1845.

212. Commissioners to erect works for the convenience of the owners of adjoining lands.

And be it Enacted, That the said Commissioners shall, and they are hereby required, in forming any reservoir and works hereby authorized to be made, and any tunnels and water-courses connected therewith or leading thereto, at their own expense to make and provide a sufficient number of convenient roads, ways, watering-places, wells, water-courses, drains and channels for irrigation for the use and occupation of the adjoining lands, and for irrigating the same in those parts where the present roads, ways, watering-places, wells, water-courses, drains and channels shall and may be taken away or interrupted, injured or rendered inconvenient or useless, by reason of the making of the said reservoirs or other works, and in case of any difference arising between the said Commissioners and the owners of such adjoining lands, such difference shall be settled by arbitration as hereinbefore provided.

213. Commissioners to make good all damages done by their works.

And be it Enacted, That the said Commissioners shall, and they are hereby required, from time to time, and at all times for ever hereafter, to pay and make good to the owners and occupiers of all houses, mills, manufactories, buildings, lands and grounds, and to every person whomsoever, all loss, costs and charges, sum and sums of money, damages and expenses whatsoever, and all injury of what

nature or kind soever, as well immediate as consequential, which such owners or occupiers or other persons may suffer, sustain, incur, pay, expend or be put unto by reason or in consequence of the erection, alteration or repairing of any works by the said Commissioners, or of any other act or acts done by them, or by reason of the failure or giving way of any of the said reservoirs, or any embankments or watercourses, pipes or other works constructed by the said Commissioners, or of any part thereof, or by any other means whatsoever.

214. Streets, &c. broken up to be reinstated without delay.

And be it Enacted, That when the pavement or soil of any street, or any sewer or drain, shall be opened or broken up by the said Commissioners, or by any other person, they shall, with all convenient speed, complete the work on account of which the same shall have been broken up, and fill in the ground, and make good the pavement or soil and the sewer or drain so opened or broken up, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such pavement or soil shall be so opened or broken up to be fenced and guarded, and to set up and maintain upon or against the part of the said pavement or soil so broken up or opened, a sufficient light during every night whilst such pavement or soil shall be continued open or broken up.

215. Penalty for obstructing construction of works.

AND for preventing any obstruction to the execution of the works hereby authorized ; BE it Enacted, That if any person wilfully obstruct any person acting under the authority of the said Commissioners in setting out the line of the works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or deface or destroy any marks made for the same purpose, he shall forfeit any sum not exceeding *Ten Pounds* for every such offence.

216. Penalty for diverting water.

And be it Enacted, That after any rivers, brooks, streams, springs or other supplies of water purchased or otherwise taken or appropriated by the said Commissioners, shall have been so purchased or appropriated, it shall not be lawful for any person other than the said Commissioners, to divert, alter or appropriate in any other manner than by law they may be legally entitled to do, any of the water supplying or flowing from the same, or to sink any well or pit, or do any act, matter or thing whereby the said water may be drawn off or diminished in quantity ; and if any person shall illegally divert, alter, or appropriate the said waters, or any part thereof, or sink any such well or pit, or shall do any such act, matter or thing whereby the said waters may be drawn off or diminished in quantity, and shall not immediately, on being required so to do by the said Commissioners

sioners, repair the injury done by him, so as to restore the said waters to the state in which they were before such illegal act as aforesaid, they shall forfeit to the said Commissioners any sum not exceeding *Ten Pounds* for every day during which the said supply of water shall be diverted or diminished by reason of any work done or act performed by or by the authority of such person.

217. Districts for the supply of water to be arranged by the Inspector.

And be it Enacted, That whenever any contract shall have been entered into between the said Commissioners and any Water Company, or any person for supplying water to the inhabitants of any town or district, in the manner hereinbefore provided, and in all other cases where the management of such supply of water shall be under the direction and control of the said Commissioners, it shall be lawful for the said Inspector to divide such town or district into several districts, and such districts shall be called water-districts; and such water-districts shall be marked out and delineated on the map or plan of such town or district; and, unless it shall have been agreed or arranged that the supply of water shall be constant, the said Inspector shall settle and arrange the quantities of water, and the times and periods for the delivery of the same for the use of the inhabitants in each such water-district; and the said Commissioners shall from time to time cause notice to be given to the inhabitants of such water-districts respectively of the times and periods for the delivery of water, and the quantities to which the said inhabitants are entitled; and it shall be lawful for such Inspector from time to time, on request of the said Commissioners, or of the contractors for the supply of water, if he shall think fit, to alter and vary the said water-districts, and to make new arrangements regarding the quantities of water to be supplied, and the times and periods for the delivery of the same, in each of such water-districts; and all such arrangements shall be taken to be and shall form a part of any contract or contracts that may be made by and between the said Commissioners and any Water Company, or other person, for the supply of water to such town or district.

218. Commissioners to lay down main pipes.

And be it Enacted, That it shall be lawful for the said Commissioners, and they are hereby required, to lay down mains and other pipes in and under all and every of the streets within such town or district, or such portions thereof as shall be formed into districts, to be supplied with water by the said Commissioners in the manner hereinbefore provided, so as to enable all the owners and occupiers of houses within such limits to obtain a supply of water, by laying down service-pipes to communicate with the main or other pipes of the said Commissioners, and the same from time to time to take up, repair and renew when and as required, doing as little damage as may be.

219. Powers for owners of houses to lay down service-pipes.

And be it Enacted, That for the purpose of having water for domestic use, as defined by this Act, conveyed to every dwelling-house or part of any dwelling-house situate within the limits of any town or district, it shall be lawful for the owner or occupier thereof to open the ground between the main and other pipes of the said Commissioners, their lessees or contractors, and such dwelling-house, and to lay pipes of such material and of such bore as shall be approved of by the said Commissioners, from such premises, to communicate with the main or other pipes of the said Commissioners, their lessees or contractors: Provided always, That every such owner or occupier shall, before he commence laying any pipe to communicate with such main or other pipes, give to the clerk or surveyor of the said Commissioners or their lessess, *Ten* Days' notice of his intention so to do.

220. Comumnication to be made under the superintendence of the Commissioners' Surveyor.

And be it Enacted, That before any pipe is made to communicate with the main or other pipes of the said Commissioners, the person intending to lay such pipe shall give *Three* Days' notice to the Surveyors of the said Commissioners of the particular day and hour when such pipe is intended to be made to communicate with the pipes of the said Commissioners; and every such pipe shall be made to communicate, under the superintendence and according to the directions of the said Surveyor or other officer or person appointed for that purpose by the said Commissioners, or the said Commissioners, if they think proper, may cause such pipes to be joined and affixed to the mains or other pipes of the said Commissioners by a person appointed by them at the charge of the person requiring such service pipe.

221. Persons using the water to provide cisterns and cocks.

And be it Enacted, That every person supplied with water under the provisions of this Act, unless such supply shall be constant, shall, if required by the said Commissioners, provide a proper cistern to receive and retain the water with which he shall be so supplied, with a ball and stop-cock affixed to the pipe conducting the water from the works of the said Commissioners to such cistern, and shall keep such cistern, ball and stop-cock in good repair, so as effectually to prevent the water from running to waste, and in case any such person shall neglect to provide, when required by the said Commissioners, such cistern, ball or stop-cock, or to keep the same in good repair, it shall be lawful for the said Commissioners, or for any person acting under their authority, to turn off the water from the premises of such person, until such cistern and ball and stop-cock shall be provided or repaired, as the case may require.

222. Penalty for suffering cistern, &c., to be out of repair.

And be it Enacted, That if any person supplied with water by the said Commissioners shall suffer any cistern or other receptacle for water, pipe or cock belonging to him to be out of repair, so that the water supplied to him by the said Commissioners shall be wasted, he shall

shall forfeit for every such offence a sum not exceeding *Five Pounds*; and it shall further be lawful for the said Commissioners to repair any such cistern, receptacle for water, pipe or cock, and the expenses of such repair shall be payable by the person so allowing the same to be out of repair, and be recovered in the manner hereinafter provided for recovery of the water-rate.

Commissioners may repair cisterns, and recover expenses.

223. Persons other than owners of dwelling-houses not to make communication before agreement.

Provided always, and be it Enacted, That no person, except the owner or occupier of any dwelling-house or part of a dwelling-house as aforesaid, laying any communication-pipe for the supply of water to the same for domestic purposes, shall cause any pipe to communicate with the pipes of the said Commissioners, unless he shall have agreed with the said Commissioners for a supply of water to his buildings and premises in the manner hereinafter provided.

224. Water for other than domestic purposes to be supplied by agreement.

And be it Enacted, That it shall be lawful for the said Commissioners to supply any person with water for other than domestic purposes as defined by this Act, at such rent and upon such terms and conditions as shall be agreed upon between the said Commissioners and the person desirous of having such supply of water.

225. Water for domestic purposes defined.

And be it Enacted, That a supply of water for domestic purposes shall, for the purposes of this Act, be taken to include a supply for all purposes of family consumption, including baths, and for the cleansing of house-drains, privies and water-closets, but shall not include a supply of water for horses, cattle or washing of carriages, nor for any trade or business whatsoever.

226. Powers for the Commissioners' officers to enter and inspect premises.

And be it Enacted, That it shall be lawful for the Surveyor, or any other person acting under the authority of the said Commissioners, at seasonable times, to enter into any house, building or premises supplied with water by virtue of this Act, in order to inspect and examine if there be any waste or improper use of such water; and if such Surveyor, or other person acting under the authority of the said Commissioners, shall at any time be refused admittance into any such house, building or premises for the purposes aforesaid, or shall be prevented from making such inspection or examination as aforesaid, it shall be lawful for the said Commissioners to turn off from such house, building or premises, the water supplied by the said Commissioners.

227. Removal of service-pipes.

And be it Enacted, That it shall be lawful for any person who shall have laid down any pipe, or who shall become entitled to the same, to remove the same, and the cocks and other apparatus belonging thereto, after having first given *Ten* Days' notice in writing to the Clerk of the said Commissioners of his intention so to do, and

every such person shall make good any damage or injury which may be caused by such removal to the pipes or other works of the said Commissioners.

228. Commissioners to provide communication-pipes for houses not exceeding 10 *l.* in value.

AND whereas the houses of the poor are in many cases not supplied with water, on account of the inability of the owners and occupiers to lay down the communication-pipes and other apparatus required; BE it Enacted, That it shall be lawful for the said Commissioners, and they are hereby required, upon the request of the owner of any dwelling-house of an annual value not exceeding *Ten Pounds*, or upon the request of the occupier, with the consent in writing of the owner of any such house, to lay down communication-pipes, together with a cistern and other apparatus required for the supply of such house with water for domestic purposes, and to keep the same in repair, and to charge for the same such reasonable annual rent or remuneration in money as shall be agreed upon, or, in case of disagreement, as shall be settled by the said Inspector; and such rent or remuneration shall thereafter be recoverable from the owner of such house at the same times and in the same manner as any water-rate due from such owner in respect of such premises may be recovered under the provisions of this Act; and such pipes and other apparatus shall not be subject to any distress for rent, nor to be taken in execution on any judgment of a court of law, or under any fiat in bankruptcy, any law or practice to the contrary notwithstanding.

229. Commissioners in default of rent may remove pipes.

And be it Enacted, That in case the owner of the premises in which such water-pipes or other apparatus shall have been affixed by the said Commissioners, shall neglect or refuse to pay such rent for the use of such pipes and apparatus, for *One Month* after demand made, the said Commissioners may demand and enforce payment from such owner of the amount of the principal money invested by them in supplying and affixing such pipes and other apparatus, or may enter upon such premises and remove such pipes and other apparatus, and the value of such pipes and apparatus so removed shall be deducted from such principal money; and such principal money, or any part thereof remaining due after such deduction, together with all arrear of rent for such pipes and apparatus and the costs incurred, may be recovered from such owner in the same manner as rates for water are directed by this Act to be recovered.

230. Owner to be at liberty to purchase the pipes.

Provided always, and be it Enacted, That it shall be lawful for the owner of any dwelling-house where any such pipes or other apparatus shall have been laid down by the said Commissioners, at any time to require that such pipes and apparatus shall be given up to him upon payment for the same at a fair valuation, and thereupon such pipe or apparatus

apparatus shall become the property of such owner, and all further rent in respect thereof shall cease to accrue to the said Commissioners.

231. Several houses may be supplied with one pipe, &c.

And be it Enacted, That it shall be lawful for the said Commissioners to consent and agree that several houses or parts of houses in the occupation of several persons shall be supplied by one common pipe, and that one cistern with a suitable ball-cock or stop-cock, as they shall deem expedient, shall be provided for receiving and retaining a supply of water for several houses.

232. Commis- to afford a supply of water by public cisterns, pumps and for baths and washhouses.

And be it Enacted, That all existing public cisterns, pumps, conduits and other water-works used for the gratuitous supply of water to the inhabitants of any town or district, shall be continued, maintained and supplied with water by the said Commissioners, and shall be vested in them and be under their management and control; and it shall be lawful for the said Commissioners to erect and place any number of new cisterns, pumps, conduits or other water-works for the supply of water to the inhabitants of any street, court or alley, or of any number of houses, as they shall see fit, or to erect the same in any public situation, for the gratuitous use of any persons who may choose to carry the same away for their own private use, but not for sale, and to supply with water any public baths or washhouses that may be established for the use of the poorer classes.

233. In case of neglect by Commissioners to supply water proportion of rate to be deducted.

And be it Enacted, That if the said Commissioners shall neglect or refuse to furnish a sufficient supply of water for domestic purposes, as settled and arranged by the said Inspector, to the owner or occupier of any dwelling-house, rated to the water rate, it shall be lawful for such owner or occupier to deduct from the amount of such rate a sum proportionate to *One-eighth* part of the amount payable by him in each quarter, for every *Two* Days in succession during which such neglect or refusal shall continue, after notice in writing shall have been given to the Commissioners of the want of such supply, unless the want of such supply shall arise from frost, great drought, or other unavoidable cause or accident.

234. Companies to supply water for public purposes if required.

And be it Enacted, That wherever the whole or any portion of any town or district shall be supplied with water by any Company or other person, who for that purpose shall have laid down or shall lay down any mains or other pipes through or along any streets within such town or district, such Company and such other person shall, and they are hereby required to furnish to the said Commissioners a sufficient supply of water for watering any such streets, and for washing the pavements thereof, and also for flushing and cleansing the sewers, drains and privies vested in the said Commissioners, and for supply-

ing any public baths and wash-houses that may be established for the use of the poorer classes, upon payment for the same at such rates and upon such terms and in such quantities as shall be agreed upon between the said Commissioners and such Company or other person; and in case of disagreement such rates shall be fixed by the said Inspector: Provided nevertheless, That if any such Company or other person shall at any time in consequence of a deficiency of water, or unavoidable stoppage or suspension of their works, be unable to supply the said Commissioners with water for the above purposes, without prejudice or hindrance to the regular and sufficient supply for the domestic use of the persons supplied by them with water, then the obligation to supply the Commissioners with water as aforesaid shall cease, so long as any of the said causes shall exist.

235. Penalty for failure of supply of water.

And be it Enacted, That if any such Company or other person shall neglect or refuse to furnish to the said Commissioners a sufficient supply of water, in the manner and for the purposes hereinbefore provided, or to furnish a sufficient supply of water for domestic purposes to any owner or occupier of any dwelling-house or other building, at the rate and upon the terms and conditions required by any Act or Acts, by virtue of which such Company or other person shall be authorized to supply water *Seven* Days after demand in writing made to the Clerk or Surveyor of the said Company, and tender made to such Clerk or Surveyor of the amount of the portion of the rate or rent payable in advance, such Company or other person shall forfeit and pay Treble the amount of the rate or rent so tendered, and also any further sum not exceeding *Twenty Shillings* for every day during which they shall refuse or neglect to furnish such supply; and if any such Company or other person shall neglect or refuse to furnish to the said Commissioners, or to any such owner or occupier, a sufficient supply of water during any portion of the period for which the rate or rent for such supply shall have been paid, they shall forfeit and pay a sum not exceeding *Twenty Shillings* for every day during which such refusal or neglect shall continue, after notice in writing shall have been given to such Company or other person of the want of supply; but no penalty shall be payable by such Company or other person, if the want of such supply shall arise from frost, drought or other unavoidable cause or accident.

236. Fire-engines and firemen may be provided by the Commissioners.

And be it Enacted, That it shall be lawful for the said Commissioners, as they shall find it to be necessary and expedient, to purchase or provide such engines for extinguishing fire, and such water-buckets, pipes and other apparatus for such engines, and such fire-escapes and other implements for safety or use in case of fire, and to purchase, keep or hire such horses for drawing such engines, as they shall think fit, and to build, provide or hire places for keeping such engines and other

other apparatus, and to employ a proper number of persons to act as firemen, and to allow them such salaries and to make such rules for their regulation as they shall think proper, and to give such firemen and other persons such rewards for their exertions in case of fire as they shall think fit.

237. Commissioners to affix fire-plugs.

And be it Enacted, That the said Commissioners, their lessees and contractors shall, and they are hereby required to fix proper fire-plugs into the main and other pipes belonging to them, wherever the same shall be laid, at such convenient distances from each other, not less than *One hundred* Yards on the average, and at such places as may be considered most proper and necessary for the supply of water in extinguishing fire.

238. Companies to affix fire plugs.

And be it Enacted, That where any town or district, or any part thereof, shall be supplied with water by any Company or other person, such Company or other person, at the request of the said Commissioners, shall and they are hereby required to fix proper fire-plugs into the main and other pipes belonging to them, wherever the same shall be laid, at such convenient distances from each other, and at such places as may be considered most proper and necessary for the supply of water in extinguishing fire, and in case any difference of opinion shall arise as to the proper position and number of such fire-plugs, such dispute shall be settled by the said Inspector, to whom the matter shall be referred, and whose decision thereon shall be final and conclusive.

239. Fire-plugs to be kept in repair, and keys deposited in convenient situations.

And be it Enacted, That the said Commissioners and the said Water Company and other person respectively, shall from time to time repair, renew and keep in proper order every such fire-plug, and as soon as any such fire-plug shall have been completed, the said Commissioners shall deposit a key thereof at each place within such town or district where any public engine shall be kept for extinguishing fire, and in any other place that the said Commissioners shall think fit, and shall affix a public notification in some conspicuous place at the side of each street in which such pipes shall be situate, to denote the situation and distance of such fire-plug, and which notification the said Commissioners are hereby authorized to put up on any house or building on the side of such street.

240. Expenses of fire-plugs, how to be defrayed.

And be it Enacted, That the expense of preparing, fixing and placing every such fire-plug, and of repairing, renewing and keeping the same in proper order, and of providing such keys as aforesaid, shall be defrayed by the said Commissioners.

241. Proprietors of manufactories may require Commissioners to place fire-plugs adjacent thereto.

And be it Enacted, That it shall at any time be competent to any person being the owner or occupier of any building or manufactory situated near to any main or other pipe of the said Commissioners, or their Lessees or Contractors, or of any Water Company or other person as aforesaid to require them to place stop-cocks and fire-plugs at the expense of the party requiring the same, opposite or near to such building or manufactory and outside of the same in the streets, and to attach the same to the pipes most suitable for that purpose, to be used for extinguishing fires only, and that exclusively of and in addition to the fire-plugs to be provided by the said Commissioners, their lessees or contractors and such Water Company and other person respectively.

242. Water may be taken to extinguish fires.

And be it Enacted, That it shall be lawful for all persons at all times to take and use the water of the said Commissioners and of any such Water Company or other person for the purpose of extinguishing any fire which may happen within such town or district, without making any compensation for such water.

243. Water mains to be kept full.

And be it Enacted, That all the main pipes to be laid down by the said Commissioners, or used under and by virtue of the provisions of this Act, for supplying any town or district with water, or any part thereof, and all main pipes used for such purpose belonging to any Water Company or other person, shall at all times be kept charged to the full with water under pressure.

244. Provision may be made for supplying ships with water.

And be it further Enacted, That it shall and may be lawful for the said Commissioners appointed for any town or district, to which ships or vessels have access, to supply such ships or vessels with water, and for the greater convenience in supplying ships or vessels with water, to lay pipes and to erect cisterns or fountains in convenient stations near any quays or docks, and to require and charge such remuneration or rate of payment for the water supplied to such ships or vessels as to the said Commissioners from time to time may seem to be just and reasonable, and to make and establish such rules and regulations for supplying ships and vessels with water as to the said Commissioners shall seem proper.

245. Penalty for persons using water without being entitled to it.

And be it Enacted, That if any person shall, without being entitled to the same, take or use any water from or out of any reservoir, aqueduct, pipes or other water-works belonging to the said Commissioners, or their lessees or contractors, or if any person having made an agreement for a supply of water for other than domestic purposes, shall take or apply any such water for any purposes other than those for which he shall have agreed, he shall forfeit for every such offence a sum not exceeding *Five Pounds.*

And

246. Penalty for damaging works.

And be it Enacted, That every person who shall wantonly or unnecessarily break, injure or open any lock, gate, valve or other main pipe, branch pipe or other pipe, or any fire-plug or any other part of the water-works belonging to the said Commissioners, or their lessees or contractors, or shall flush or draw off the water of the said Commissioners, or their lessees or contractors, or shall do any other wilful act whereby such water shall be wasted, or shall wilfully obstruct or injure any person in the execution of the powers conferred by this Act for the purpose of procuring supplies of water, shall forfeit for every such offence a sum not exceeding *Five Pounds*.

247. Penalty on persons fouling water.

AND in order to preserve the water to be supplied to any town or district pure and wholesome; BE it Enacted, That every person who shall wilfully or knowingly commit any of the following offences shall, for every such offence, forfeit and pay a sum not exceeding *Five Pounds*; (that is to say)

1. Every person who shall bathe in any reservoir, aqueduct or other water-works belonging to the said Commissioners, or their lessees or contractors, or shall wash or cause to enter therein any dog or other animal:

2. Every person who shall throw, put or cast any gravel, stone, rubbish, dirt, filth or other noisome or offensive matter or thing into any such reservoir, aqueduct or other waterworks as aforesaid, or who shall wash or cleanse therein any cloth, wool, leather or skin of any animal or other thing:

3. Every person who shall cause or permit the water of any sink, sewer or drain, or any other offensive liquid, matter or thing belonging to him, to run, drain or be conveyed into any of the springs, rivulets, reservoirs, aqueducts, pipes or other water-works belonging to the said Commissioners, or who shall commit or cause any other act whereby the water of the said Commissioners shall be fouled or corrupted.

248. Penalty on gas-makers for corrupting water.

And be it Enacted, That if any person making or supplying any gas within any town or district shall at any time cause or suffer to be conveyed or to flow into any stream, reservoir, aqueduct, pond or place for water within such town or district, or belonging to the said Commissioners, or into any drain, sewer or ditch communicating therewith, any gas or any washing substance or thing which shall be produced in making or supplying gas, or shall do any act to the water contained in any such stream, reservoir, aqueduct, pond or place for water, whereby the water therein shall be fouled or corrupted, then such person shall forfeit and pay for every such offence any sum not exceeding *Fifty Pounds*.

249. Daily penalty for escape of gas after notice.

And be it Enacted, That whenever any gas shall escape from any pipe which shall be laid down or set up by any person making or supplying any gas within any town or district, such person shall, immediately after receiving notice in writing of any such escape of gas, prevent such gas from escaping; and in case such person shall not within *Twenty-four* Hours next after the service of such notice effectually prevent the gas from escaping and wholly remove the cause of complaint, then he shall for every such offence forfeit the sum of *Five Pounds* for each day after the expiration of *Twenty-four* Hours from the service of such notice during which the gas shall be suffered to escape.

250. Humane apparatus and assistants may be provided.

And be it Enacted, That it shall be lawful for the said Commissioners to purchase, provide and maintain all such apparatus, matters and things as may appear to them to be necessary, to assist in searching for drowned persons, and restoring animation to persons apparently drowned, and to employ and reward assistants therein in such manner as to the said Commissioners shall seem expedient.

251. Secretary of State, on request of Town Council, Commissioners or Vestry, may direct Inspector to report upon any proposed application to Parliament for a local Act.

And be it Enacted, That whenever notice shall have been given of an intention to make an application for an Act of Parliament for the supply of water to any town or other place, or for otherwise improving such town or other place, then, whether the provisions of this Act shall have been declared to be in force in such town or district or not, it shall be lawful for One of Her Majesty's Principal Secretaries of State, on the request of the Town Council of any borough, or of any Commissioners acting under the provisions of this Act, or of any Trustees acting under the provisions of any local Improvement Act, or of the majority of the inhabitants in vestry assembled of any place or parish within the limits to which such Act, if granted, is intended to apply, to direct any Inspector to inquire into and report to him upon the proposed application, and such report shall be laid before Parliament within *One Fortnight* after the meeting of Parliament; and any such Inspector shall have the same power and authority of summoning and examining witnesses upon oath, and inspecting books and maps that are hereinbefore granted to Inspectors when required to define the boundaries of any town or district.

252. Sewer rate, paving rate and general rate to be assessed in every town or district.

AND in order to raise money for the carrying the several purposes of this Act into execution; BE it Enacted, That it shall be lawful for the Commissioners for every town or district made subject to this Act, once in every year, or oftener if they shall think it necessary, to make one or more rate or rates, to be called the Sewer Rate, for the purpose of purchasing, constructing, and repairing sewers, for such town or district, and for otherwise maintaining effectually the wholesome sewerage and drainage of such town or district, and also for securing, raising

raising, and paying any monies, and the interest thereof, which may be borrowed on the security of the said Sewer Rate, in pursuance of the provisions of this Act; and in like manner, once in every year, or oftener if they shall think it necessary, to make one or more rate or rates, to be called the Paving Rate, for the purpose of forming, making, maintaining, and keeping in repair the carriage-ways and roads, and forming, making, paving, sweeping, cleansing, and watering the streets, within such town or district, and for securing, raising and paying any monies, and the interest thereof, which may be borrowed on the security of the said Paving Rate, in pursuance of the provisions of this Act; and in like manner, once in every year, or oftener if they shall think it necessary, to make one or more rate or rates, to be called the General Rate, for defraying all sums specially made payable by this Act out of such rate, together with the salaries of all officers acting in the execution of this Act, unless otherwise provided, and all other incidental costs, payments, charges, and expenses attending the execution of the powers, duties, and authorities hereby imposed and given to the Commissioners, and which are not herein otherwise specially provided for.

253. Rates to be levied on persons holding, using or occupying houses, &c.

And be it Enacted, That every such rate as aforesaid shall be made and levied by the Commissioners for every town or district, at yearly, half-yearly, or quarterly periods, or oftener if they shall think necessary, upon all or every person who shall hold, use, or occupy any house, shop, warehouse, counting-house, coach-house, stable, cellar, vault, building, workshop, manufactory, garden, land or tenement whatsoever, (except as hereinafter is excepted), situate within the limits of such town or district, according to the full net annual value thereof respectively, the same to be ascertained in manner hereinafter mentioned; and the said rates shall from time to time be collected and paid yearly, half-yearly or quarterly, or oftener if the said Commissioners shall think proper, in every year, and shall commence from such time after this Act shall come into operation in such town or district, as the Commissioners shall think fit: Provided always, That every person who shall hold, use or occupy lands used as arable, meadow, or pasture ground only, or as woodlands, or market-gardens or nursery-grounds, shall be rated in respect of the same, in the proportion of one-fourth part only of such net annual value thereof as aforesaid.

Exception in favour of the holders of lands, nursery grounds, &c.

254. Commissioners to fix the amount of water-rate.

And be it Enacted, That the said Commissioners, at a meeting to be held once in each year, shall estimate and fix, and they are hereby authorized and required to estimate and fix, the amount of money necessary to be levied for the purpose of defraying the current costs, charges and expenses of the water department, under which shall be understood to be comprehended the payment of the interest of any

money borrowed on the credit of the water-rate, as well as any sum of money which the Commissioners shall think fit to appropriate, set apart, and apply each year, as and for a sinking-fund for paying off and discharging any principal monies so borrowed and secured; also the expense of reservoirs, engines, machinery and other works to be erected as hereinbefore provided, together with the expense of providing and preserving springs and otherwise obtaining and distributing supplies of water to the inhabitants of such town or district, and such portions of the salaries, wages and other expenses of any surveyors, clerks, collectors, or other officers or servants employed by them as the said Commissioners shall think equitable and fair to charge to such account; also the rent (if any) agreed to be paid to any water company or person for furnishing supplies of water, and all other charges and expenses attendant upon procuring and distributing a supply of water for the use of the inhabitants of such town or district.

255. Commissioners to make a water-rate.

AND in order to raise a sum of money sufficient to defray the costs, charges and expenses of the water department; BE it Enacted, That it shall be lawful for the said Commissioners, once in every year, to make a rate, to be called "the Water-rate," to be made and levied on every person who shall hold, use or occupy any dwelling-house situate within the limits of such portion or portions of any town or district as shall be marked out in the plan of the said Inspector, to be supplied by the said Commissioners, or by their lessees or contractors, with water, or by any other person on their account, according to the full net annual value thereof, and in like manner upon every person who shall hold, use or occupy any shop, warehouse, counting-house, coach-house, stable, cellar, vault, workshop, manufactory or other building, and all yards and all other places where goods or other property are deposited, or business carried on, except as hereinafter is excepted, according to *One-fourth* part only of such net annual value thereof respectively; and the said rate shall from time to time be collected and paid by yearly, half-yearly or quarterly payments, or at shorter periods, as the said Commissioners shall think proper, and shall commence from such time after this Act shall come into full force and operation in such town or district as shall be fixed by the said Inspector: Provided always, That no person who shall hold, use or occupy any dwelling-house, shall be liable to be rated in a greater proportion than according to *One-fourth* part only of such net annual value thereof, unless the mains or other pipes of the said Commissioners, or their lessees or contractors, shall be laid down and properly supplied with water within *Thirty* Feet from the outer wall of such premises.

256. Churches, chapels, schools, &c., not liable to be rated.

Provided always, and be it Enacted, That no person shall be rated to any rate whatever made in pursuance of this Act, in respect of any church

church, chapel or other building exclusively used for public worship, or in respect of any rent-charge in lieu of rectorial or vicarial tithes, or any composition in lieu of any such rent-charge, or in respect of any building exclusively used for the gratuitous education of the poor, or in respect of any land, building or other property belonging to the Commissioners appointed under the provisions of this Act.

257. Net annual value to be determined according to the provisions of 6 & 7 Will. 4, c. 96.

And be it Enacted, That the net annual value of all such property in respect of which the person who shall hold, use or occupy the same is liable to be rated under the provisions in this Act contained, shall be ascertained according to the meaning of the words net annual value, as described in an Act of Parliament passed in a Session of Parliament held in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, and intituled, "An Act to regulate Parochial Assessments."

258. Poor-rate may be inspected and copied.

AND in order to assist the said Commissioners in making any rate or rates in pursuance of this Act; BE it Enacted, That it shall be lawful for the Commissioners of any town or district, and they are hereby authorized and empowered, at all reasonable times, to inspect, or by writing signed by them or any *Three* of them to grant authority to any other person to inspect any of the rates made for the relief of the poor for any parish or other like district, within such town or district, or the books wherein the assessment thereto shall be entered; and also by writing signed as aforesaid to require a copy of such rates or books, or any extracts therefrom, paying for such copies or extracts at and after the rate of *Three-pence* for every *One hundred* Words; and if any person, in whose custody or power any of the said rates or books shall be, shall refuse or neglect to produce the same in manner hereby required, or to make and deliver, or cause to be made and delivered such copies or extracts, on being paid for the same at and after the rate aforesaid, he or they shall for every such offence forfeit and pay any sum not exceeding *Five Pounds*.

259. The paving rate and general rate may be charged upon separate and distinct districts.

AND whereas it may in some cases be desirable that the paving-rate and general-rate hereinbefore authorized to be levied within any town or district should be assessed and levied by separate and distinct rates to be made for one or more separate and distinct district or districts; BE it Enacted, That it shall and may be lawful for the said Commissioners from time to time, at their discretion, to order separate and distinct paving rates or general rates to be made, and thereupon it shall be the duty of the Surveyor to the Commissioners for such town or district particularly to describe, define and map down in the plan of such town or district every such separate and distinct district to be made for the purposes of rating as aforesaid, and so from time to time, when and as often as any separate and distinct rate or rates

shall be ordered by the said Commissioners as aforesaid : Provided always, That no such district or districts shall be or become a separate and distinct district for the purposes aforesaid, nor shall any assessment by a separate and distinct rate as aforesaid be made unless the Inspector shall certify by writing under his hand his approval of the same.

260. Rates to be levied on separate and distinct districts.

And be it Enacted, That when and as often as the Inspector shall have reported any separate or distinct level or district, for the purposes of sewerage and drainage as aforesaid, and when and as often as the Commissioners shall order a separate and distinct district to be formed for the purposes of the paving rate or general rate under the powers hereinbefore vested in them, and the same shall be approved by the Inspector as aforesaid, then and in every such case it shall be lawful for the Commissioners, and they are hereby required, instead of making one rate or rates respectively for the whole town or district for which they are appointed Commissioners, to make separate and distinct rates, as occasion shall require, for every such separate and distinct level or district respectively, and to appoint, if they shall see fit, surveyors, collectors, treasurers, expenditors and other officers for every such level or district, or any part thereof respectively; and to cause separate and distinct accounts to be kept of all monies collected and received by virtue of any rate or rates which shall be made under the authority of this Act, in every distinct level or district, and of all payments and disbursements in respect thereof; and the said Commissioners are hereby authorized to apply the monies to be collected and received from each distinct level or district by virtue of any such rate or rates as aforesaid, to and for the several purposes to which the same may be lawfully applied under the authority of this Act, but so nevertheless that each level or district shall, as near as may be, bear its own costs, charges and expenses; and in case any such costs, charges and expenses shall apply to or be incurred in respect of two or more levels or districts, the same shall be apportioned and divided between such levels and districts in such manner as the said Commissioners shall adjudge to be fair and equitable.

261. Rates may be prospective or retrospective.

And be it Enacted, That it shall be lawful for the said Commissioners to make any such rate for the purposes aforesaid prospectively to raise money to pay charges and expenses to be incurred thereafter, or retrospectively to raise money to pay charges and expenses already incurred.

262. Owner of unoccupied premises to be rated to the sewers' rate.

And be it Enacted, That when any house, shop, warehouse, counting-house, coach-house, stable, cellar, vault, building, workshop, manufactory, garden, land or tenement in respect of which any occupier would be liable to be rated and assessed to the sewer rate under the

the provisions of this Act, shall at the time of making such rate be unoccupied, then and in every such case it shall be lawful for the Commissioners, and they are hereby required, to rate and assess the owner of such unoccupied premises to such rate; and every such owner shall pay the amount of such rate: Provided always, That nothing herein contained shall affect the right hereinafter reserved to recover any arrears due of sewer rates from any future occupier of such premises.

263. Unoccupied premises may be included in the paving, general and water-rates; but the rates are not to be collected unless the premises are afterwards occupied.

And be it Enacted, That when any premises, in respect of which any person may be liable to be assessed to the paving rate, general rate or water rate, under the provisions of this Act, shall, at the time of making any such rates, be unoccupied, then and in every such case it shall be lawful for the Commissioners to include such premises in the said rate, describing them in the column in the said rate appropriated to the name of the occupier, as being "void;" and if any person or persons shall afterwards occupy such property during any part of the period for which such rate shall have been made, it shall be lawful for the Commissioners to insert in such rate the name of such occupier, and to collect from such occupier or from the owner, if he shall be liable to pay the same, such portion of the said rates as shall be proportioned to the time during which such person or persons shall occupy such property; and every such person shall thereupon be deemed, to all intents and purposes, to be properly rated, and all such rates may be collected and recovered from the person who shall be liable to pay the same under the provisions of this Act, in the same manner as other rates made payable under the provisions of this Act: Provided always, That any such person, whose name shall be so inserted in such rate, and such owner as last aforesaid may appeal against the same to the Justices at Special Sessions, or to the General Quarter Sessions, which shall be holden next after such insertion of his name as aforesaid: Provided also, That, except as aforesaid, no paving rate, general rate, or water rate, shall be payable by any person whatsoever in respect of unoccupied premises.

264. Owners of property not exceeding £.10 per annum net annual value to pay rates instead of occupier.

And be it Enacted, That the owners of all rateable property, the full net annual value whereof respectively shall not exceed *Ten Pounds*, or which shall be let to weekly or monthly tenants, or in separate apartments, shall be rated to and pay the rates by this Act directed to be made, instead of the occupiers thereof.

265. Owner may be rated without stating his name.

And be it Enacted, That whenever the name of any owner liable to be rated under the provisions of this Act shall not be known to the Commissioners, or to the person making any rate, it shall be sufficient to rate such owner in the rate-book of the Commissioners as the owner

of the property to be rated, by the designation of " the owner," without stating his name.

266. Deductions to be made in assessing rates on the owners of premises of a less value than £.10.

AND whereas it is reasonable that a fair deduction should be made to the owners of all rateable property, the full net annual value whereof shall not exceed Ten Pounds, who are required, under the provisions hereinbefore contained, to pay rates and assessments instead of the occupiers thereof, as an equivalent for the losses they are liable to sustain by reason of the frequent changes in the occupation of such premises, and their inability to recover from such tenants the rents due in respect thereof; BE it Enacted, That in rating and assessing such premises under the provisions of this Act, there shall be deducted from the rent at which the same might reasonably be expected to let from year to year as in the said Act, called " The Parochial Assessment Act," is mentioned, not only the probable average annual cost of the repairs, insurance and other expenses, if any, necessary to maintain them in a state to command such rent, but also a sum not exeeeding *Fifteen* Pounds per centum on the amount of such rent, as and for an equivalent for such liability to losses as aforesaid; and the rate at which such deduction shall be made, within the limit above mentioned, shall be in the discretion of the Commissioners according to the circumstances of the case.

267. Notice of rate to be given.

And be it Enacted, That notice of the intention of making every rate authorized to be made under the provisions of this Act, and of the time at which the same is intended to be made, and of the place where a statement of the proposed rate shall be deposited for inspection, shall be given by the Commissioners, by placards to be posted up in some public places, and circulated within the limits of the town or district immediately previous to such rate being made, or as nearly so as may be: Provided always, That it shall not be necessary, in any proceedings to levy and recover such rate, to prove that such notice as aforesaid was given.

268. Form of rate.

And be it Enacted, That every rate made under the authority of this Act shall be fairly transcribed in a book to be kept for that purpose, and shall contain an account of every particular set forth at the head of the respective columns in the form given in the Schedule (D.) to this Act annexed, so far as the same can be ascertained, and every such rate or assessment shall be signed by not less than *Six* of the Commissioners; and every such rate shall be vested in the Commissioners, and shall be payable at such times as the said Commissioners shall order and direct.

And

269. Rate may be inspected by rate-payers.

And be it Enacted, That immediately after any rate shall be made under the provisions of this Act, the same shall be open to the inspection of any person rated, or otherwise interested in such rate, at all seasonable times, and any such person may take copies or extracts from such rate without paying any thing for the same; and if the person having the custody of such rate shall refuse or shall not permit any such person as aforesaid to take copies or extracts from such rate, he shall forfeit for every such offence any sum not exceeding *Five Pounds*.

270. Rates may be amended.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to amend any rate made by virtue of this Act, by inserting therein the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by increasing or reducing the sum at which any person shall have been rated, if it shall appear to them that such person has been under-rated or over-rated, or by making such other amendments therein as will make such rate conformable to this Act; and no such amendments shall be held to avoid the rate: Provided always, That any person who shall be aggrieved by any such alteration shall have the same right of appeal therefrom as he would have had if his name had been originally inserted in such rate, and no such alteration had been made; and every person whose rate shall be altered shall be entitled to *Seven* Days' notice of such alteration before the rate shall be payable by him.

271. Appeal to petty sessions on the ground of inequality, &c.

And be it Enacted, That if any person shall think himself aggrieved by any rate on the ground of inequality, unfairness or incorrectness in the valuation of any rateable property included therein, he may appeal to the Justices at any special sessions which may be holden for the division within which such rateable property is situate, under the provisions of the said Statute passed in a Session of Parliament holden in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, and intituled, "An Act to regulate Parochial Assessments;" and at such special sessions, or any adjournment thereof, the Justices there present shall hear and determine all objections to any such rate on the ground of inequality, unfairness, or incorrectness in the valuation of any property included therein, which decision shall be binding and conclusive on the parties, unless the person or persons impugning such decision shall, within *Fourteen* Days after the same shall have been made, cause notice to be given in writing of his intention to appeal against such decision, and of the matter or cause of such appeal, to the person in whose favour such decision shall have been made, and within *Five* Days after giving such notice shall enter into a recognizance before some Justice of the Peace, with sufficient securities, conditioned to try such appeal at the then

next general or quarter sessions of the peace which shall first happen, and to abide the order of, and pay such costs as shall be awarded by the court at such sessions, or any adjournment thereof; and such court, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper, and their determination in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever: Provided always, That no such objection as aforesaid shall be inquired into by the said Justices in special sessions, unless notice of such objection in writing under the hand of the complainant shall have been given, *Seven* Days at least before the day appointed for such special sessions, to the Commissioners by whom such rate was made: Provided also, That the said Justices in special sessions shall not be authorized to inquire into the liability of any property to be rated, but only into the true value thereof, and into the fairness of the amount at which the same shall have been rated.

272. Justices in special sessions may amend rates and award costs.

And be it Enacted, That the Justices present at any such special or adjourned sessions shall, for the aforesaid purposes, have all the power of amending or quashing any such rate so objected to, and likewise of awarding costs to be paid by or to any of the parties as any court of quarter sessions has on any appeal against a poor-rate; and such costs shall be recovered in the same manner as any penalty under this Act: Provided always, That no order of the said Justices shall be removed by certiorari or otherwise into any of Her Majesty's Courts of Record at Westminster: Provided also, That nothing in this Act contained shall be construed to deprive any person of the right to appeal against any rate to any court of general or quarter sessions: Provided also, That no order of the said Justices in special sessions shall be of any force pending any appeal touching the same subject-matter to the court of general or quarter sessions of the Peace having jurisdiction to try such appeal, or in opposition to the order of any such court upon such appeal.

273. Parties may appeal to the quarter sessions against a rate.

And be it Enacted, That if any person shall think himself aggrieved by any rate made under the authority of this Act, or by any matters included in or omitted from the same, he may appeal to the next general or quarter sessions of the Peace for the county or borough within which such town or district shall be situate, but no such appeal against such rate, or any matter contained in or omitted from the same, shall be entertained at such general or quarter sessions, unless *Fourteen* clear Days' notice in writing of such appeal, stating the nature and ground thereof, be given by the aggrieved party to the Commissioners; and at the general or quarter sessions for which any such notice of appeal shall be given, the court shall proceed to hear and determine the appeal in a summary

mary way, except when the court shall think fit to adjourn the appeal to the following sessions, which they are hereby authorized to do, and in all such cases the court shall hear and determine the appeal at such last-mentioned sessions.

274. Quarter sessions, on appeal, may amend or quash rates and award costs.

And be it Enacted, That the court of quarter sessions shall, in any appeal against any rate made under the authority of this Act, have the same powers of amending or quashing such rates as are by law vested by such court for amending or quashing the rates for the relief of the poor within their jurisdiction upon appeals against such rates; and shall likewise have, in any such appeal, the same powers of awarding costs to be paid by or to any of the parties to an appeal, and of recovering such costs as are now vested in such court for awarding and recovering costs in an appeal against any rate for the relief of the poor within their jurisdiction.

275. Rates to be recovered by action or distress.

And be it Enacted, That if any person rated under the authority of this Act, shall not pay any of the said rates due from him for the space of *Fourteen* Days after demand thereof in writing, by the Commissioners or their collector, it shall be lawful for the Commissioners to recover the same by action of debt in any of Her Majesty's Superior Courts, or any other court whatever having jurisdiction there over debts to the amount sought to be recovered, or any Justice shall, on the application of the Commissioners or of their collector, summon any such person to appear before him, at a time to be mentioned in the summons, to show cause why the rate due from him should not be paid; and in case no sufficient cause for the non-payment of such rate shall be shown, the same shall be levied by distress, and such Justice shall issue his warrant accordingly.

276. Form of warrant of distress.

And be it Enacted, That the warrant of distress for the recovery of any rate made payable by this Act, may include one person or several persons, and may be in the form or to the effect mentioned in the Schedule (E.) to this Act annexed; and in all cases where a distress is hereby authorized to be made, every constable authorized by the warrant to levy any sum mentioned therein, shall, upon being required by a collector of rates, aid in making a distress or sale pursuant to such warrant; and every constable who shall refuse so to do, shall be liable to a penalty not exceeding *Five Pounds*.

277. Persons about to quit, liable to pay rates, on demand.

And be it Enacted, That if any person shall quit, or be about to quit, any rateable property before he shall have paid the rates then payable by him in respect thereof, and shall not pay the same to the Commissioners or their collector, on demand, it shall be lawful for any Justice or the Peace, having jurisdiction where such person may reside, or his goods be found, to summon such person to appear before him, at a time to be mentioned in the summons, to show cause why the rates

should not be paid; and if no sufficient cause for the non-payment of such rates be shown accordingly, the same shall be levied by distress, and such Justice shall issue his warrant accordingly.

278. Rates to be apportioned.

And be it Enacted, That when any paving rate, general rate or water rate shall be made for a particular period, and the owner or occupier who shall be rated to such rate, shall cease to be the owner or occupier of the property in respect whereof he shall be rated before the end of such period, such owner or occupier shall be liable to pay a portion only of such rate payable for the whole of such period proportionate to the time during which he continued to be owner or occupier, and in every such case, if any person shall become the owner or occupier of any property so rated as aforesaid, during any part of any period for which any such rate shall have been made, such person shall pay a portion of such rate proportioned to the time during which he shall have held or occupied the property so rated, and the same shall be recovered from him in the same manner as if he had been originally rated for such property.

279. Rates due from owner may be recovered from occupier.

And be it Enacted, That when the owner of any rateable property shall have been rated in respect thereof, and the rate shall remain unpaid for the space of *Three* Months, it shall be lawful for the Commissioners or their collector to recover the amount of such rate from the occupier of such rateable property by distress and sale of his goods and chattels, in like manner as rates may be recovered from the occupiers of any property liable to be rated: Provided always, That no occupier shall be required to pay, nor shall his goods and chattels be distrained for any further sum than the amount of rent due from him at the time of the demand made upon him for such amount of rate, or which shall after such demand and notice not to pay the same to his landlord, at any time accrue and become payable by him, unless he shall refuse, on application being made to him for that purpose by or on behalf of the Commissioners, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burthen of proof that the sum demanded from any such occupier is greater than the rent which was due by him at the time of such notice, or which shall have since accrued, shall lie upon such occupier.

280. Occupier refusing to give name of owner liable to a penalty.

And be it Enacted, That if, on the request of the said Commissioners, or of the collector of the said rates, the occupier of any property, shall refuse or wilfully omit to disclose, or shall wilfully misstate to the said Commissioners or collector making such request the name of the owner of such property, or of the person receiving or authorized to receive the rents of the same, it shall be lawful for any Justice of the Peace, on oath made before him of such request, and of such refusal or wilful omission or mis-statement, to summon the person who shall

shall have so refused, or wilfully omitted, or mis-stated as aforesaid, to appear at the time and place to be mentioned in such summons, before such Justice, or before some other Justice; and if the person so summoned shall neglect or refuse to attend at the time and place mentioned in the summons, or if he shall attend and not show good cause to the Justice then present for such his refusal, or wilful omission, or mis-statement, it shall be lawful for such Justice, upon proof, in case of the neglect or refusal to attend as aforesaid, of the due service of the said summons, to impose a penalty upon such person who shall have so refused, or wilfully omitted, or have made such wilful mis-statement, not exceeding the sum of *Five Pounds*.

281. Occupier may recover money paid for rates due from owner, or deduct the amount from the rent.

And be it Enacted, That if the amount of any rate which under the provisions of this Act ought to be borne and paid by the owner of any rateable property, shall be paid by the occupier of such property, or levied on his goods and chattels, then the person who shall be the owner of such property at the time of such payment or levy, shall reimburse the occupier, and it shall be lawful for such occupier to deduct the sums paid or levied, together with the costs of the distress (if any) paid by him, from any rent due or to become due from him in respect of such property, and the payment shall be a good and sufficient discharge to such occupier against such owner for so much money as he shall have paid in the manner directed by this Act, or shall have sustained the loss of by reason of any distress made under this Act; or such occupier may recover the same from such owner as aforesaid by action of debt, or on the case to be brought in any of Her Majesty's Superior Courts, or in any Court whatsoever.

282. One-half of sewer rates may be deducted by occupier from his rent.

And be it Enacted, That in every case in which any occupier of any rateable property shall have paid any sum for sewer rates, he shall be entitled to deduct from the rent which shall at the time of such payment be due in respect of such rateable property, or which may thereafter accrue due and become payable by him, *One-half* of such amount of sewer rates so paid as aforesaid: Provided always, That nothing herein contained shall be taken to affect any special contracts between any lessor and occupier of such rateable property, whereby it is agreed that the occupier shall pay and discharge the sewer rates due or to become due in respect of such property.

283. Paving general or water rates paid by owners may be recovered from certain tenants

Provided always, and be it Enacted, That when any owner shall be rated to the paving rate, general rate or water rate, in respect of any rateable property which shall be in the occupation of a tenant under any lease or agreement made prior to the period when this Act shall come into full force and operation in the town or district in which such property is situate, such tenant shall repay to the owner all

all sums which shall be paid by the owner on account of any such rates made under the provisions of this Act, during the continuance of such lease or agreement, unless it shall have been agreed, by the terms of such lease or agreement as aforesaid, that the owner should pay such rates in respect of such property; and every such sum of money payable by the tenant to the owner under the provision hereinbefore contained, may be recovered, if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

284. Liability to rates not to disqualify certain officers and Commissioners to be competent witnesses.

And be it Enacted, That no person, although liable to the payment of money towards the rates authorized to be raised under this Act, shall by reason thereof be disabled to act as a Justice of the Peace, or as a Sheriff, Coroner, Under-sheriff, Juror or otherwise, in any matter relating to the carrying of this Act into execution, nor shall any Commissioner be deemed to be an incompetent witness in any action, suit or proceeding under this Act, by reason of his being a party in or to any such action, suit or proceeding.

285. Lands or tenements may be sold.

And be it Enacted, That the said Commissioners may, with the consent of the Inspector, sell and dispose of any lands or tenements vested in them by virtue of this Act, or any part thereof, either together or in parcels, as they may find most convenient and advantageous, to such persons as may be willing to contract for and purchase the same, and the money to arise and be produced by such sale shall be applied to such of the purposes of this Act as the Commissioners shall think fit, and the purchaser of such lands or tenements shall not be answerable or accountable for any misapplication or non-application of such purchase-money; and for the completing and carrying any such sale into effect, the Commissioners may make and execute a conveyance of the lands and tenements sold and disposed of as aforesaid unto the purchaser thereof, and such conveyance shall be under the common seal of the Commissioners.

286. Effect of the word "grant" in conveyances.

And be it Enacted, That in every such conveyance the word "grant" shall operate in like manner and for the same purposes as are declared in the said "Lands' Clauses Consolidation Act 1845," of and concerning the use of the word "grant" in conveyances of lands by the said Act authorized to be made in manner therein particularly mentioned and hereinbefore referred to.

287. Money may be borrowed on security of the paving rates.

AND in order to raise money for defraying the expenses incurred or to be incurred by the Commissioners in carrying into effect the provisions of this Act, as to the paving, repairing, and forming the streets and roads; BE it Enacted, That it shall be lawful for the Commissioners,

Commissioners, and they are hereby authorized, to borrow and take up at interest, on the credit of the rates hereinbefore authorized to be made and levied, and called the paving rate, of and from any person who shall be willing to advance the same, the sum and sums of money necessary for defraying the costs, charges and expenses incurred or to be incurred by them in forming, making, maintaining and keeping in repair the carriage ways and roads, and forming, making and paving the streets of such town or district, or any part or parts thereof; and for securing the repayment of such sum or sums of money, with interest at a rate not exceeding *Five Pounds* per centum per annum, the Commissioners may mortgage and assign over the said paving rates or assessments, or any part thereof, to the person who shall advance such money, or his trustee, as a security for the money so to be borrowed, together with interest for the same.

288. Money to be borrowed on security of the sewer rates.

AND in order to raise money for defraying the expenses incurred or to be incurred by the Commissioners in carrying into effect the provisions of this Act, as to the sewerage and drainage of any town or district; BE it Enacted, That it shall be lawful for the Commissioners and they are hereby authorized to borrow and take up at interest, on the credit of the rates hereinafter authorized to be made and levied, and called the sewer rate, of and from any person who shall be willing to advance the same the sum or sums of money necessary for defraying the costs, charges and expenses incurred or to be incurred by them in and about the sewerage and drainage of such town or district; and for securing the repayment of such sum or sums of money with interest, at a rate not exceeding *Five* Pounds per centum per annum, the said Commissioners may mortgage and assign over the said rates and assessments, or any part thereof, to the person who shall advance such money, or his trustee, as a security for the money so to be borrowed, together with interest for the same: Provided always, That in all cases where a separate level or district has been reported to the Commissioners by the Inspector as aforesaid, the money borrowed to defray the costs, charges and expenses of sewering and draining such separate level or district, shall, as near as may be, be charged upon the credit of the sewer-rate, to be assessed as hereinafter provided upon such separate level or district; and in case any such costs, charges and expenses shall apply to or be incurred in respect of Two or more levels or districts, or parts thereof respectively, the same shall be apportioned and divided between such levels and districts, in such manner as the said Commissioners shall adjudge to be fair and equitable.

289. Money may be borrowed on security of the water-rates and water-works.

AND in order to raise money for defraying the expenses incurred or to be incurred by the Commissioners in carrying into effect the provisions of this Act, as to the supplying of water; BE it Enacted, That

That it shall be lawful for the Commissioners and they are hereby authorized to borrow and take up at interest, on the credit of the rates and assessments hereinbefore authorized to be levied, and called the water rate, and on any water-works belonging to the said Commissioners, of and from any person who shall be willing to advance the same, the sum or sums of money necessary for defraying the costs, charges and expenses incurred or to be incurred by them in and about the obtaining of supplies of water, and distributing the same throughout such town or district, or any part or parts thereof; and for securing the re-payment of such sum or sums of money, with interest at a rate not exceeding *Five Pounds* per centum per annum, the Commissioners may mortgage and assign over the said water-rates and assessments, and any such water-works as aforesaid, or any part thereof respectively to the person who shall advance such money, or his trustee, as a security for the money so to be borrowed, together with interest for the same.

290. Monies borrowed on security of rates to be paid off in a period of Thirty Years.

And be it Enacted, That in order to discharge the principal money of any such sum or sums of money as shall be borrowed on security of any of the said rates, it shall be lawful for the said Commissioners, and they are hereby authorized and required, yearly and every year, to deduct, appropriate and set apart and apply, out of such rates respectively, such a sum of money as shall be in proportion to *One-thirtieth* part of the money borrowed or secured, and which at that time shall remain due and secured as aforesaid upon the said rates respectively, as and for a sinking fund, to be applied in paying off and discharging the principal monies so respectively borrowed or secured; and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer Bills, and to be increased by accumulation in the way of compound interest or otherwise, until the same shall be of sufficient amount to pay off the said principal debts, or some one of them, or some part of some one of them respectively, at which time the same shall be so applied in paying off the same in manner hereinafter mentioned.

291. Form of mortgage

And be it Enacted, That every mortgage of rates or water-works authorized to be made under the provisions of this Act, shall be by deed duly stamped, in which the consideration shall be truly stated, and every such deed shall be under the common seal of the Commissioners, and may be according to the form in the Schedule (F.) to this Act annexed, or to the like effect, and the respective mortgagees shall be entitled, one with another, to their respective proportions of the rates and assessments, or other property, comprised in such mortgages, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced with interest, without any preference one above another

by

by reason of priority of advancing such monies, or of the dates of any such mortgage respectively.

292. Expenses of mortgages.

And be it Enacted, That the expenses of every mortgage shall from time to time be defrayed by the Commissioners out of the money raised by the same.

293. Registers of mortgages to be kept, and to be open to inspection.

And be it Enacted, That a separate register of mortgages on the sewer rates, a like register of mortgages on the paving rates, and a like register of mortgages on the water rates and water-works, shall be kept by the Clerk to the Commissioners, and within *Fourteen* Days' after the date of any mortgage, an entry or memorial, specifying the number and date of such mortgage, and the sum secured thereby, and the names of the parties thereto, with their proper additions, shall be made in the proper register, and every such register may be perused at all reasonable times by any mortgagee or by any person interested in any such mortgage, without fee or reward.

294. Transfer of mortgages.

And be it Enacted, That from time to time any party entitled to any such mortgage may transfer his right and interest therein to any other person, and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the Schedule (G.) to this Act annexed, or to the like effect.

295. Registers of transfers to be kept.

And be it Enacted, That within *Thirty* Days after the date of every such transfer, if executed within the United Kingdom, or otherwise within *Thirty* Days after the arrival thereof in the United Kingdom, it shall be produced to the Clerk to the Commissioners; and thereupon the Clerk shall cause an entry or memorial thereof to be made in the proper registry, in the same manner as in the case of he original mortgage; and for such entry the Clerk may demand a sum not exceeding *Two Shillings and Sixpence*, and no more; and after such entry, every such transfer shall entitle the transferee, his executors and administrators, to the full benefit of the original mortgage, and the principal and interest thereby secured, and such assignee may in like manner assign or transfer the same again, and toties quoties and it shall not be in the power of any person, except the person to whom the same shall have been last transferred, his executors or administrators, to make void, release or discharge the original mortgage, or the monies due thereon or secured thereby.

296. No transfer or release necessary from mortgagee.

And be it Enacted, That from and after the payment or satisfaction of all the principal and interest monies secured by any mortgage made under the powers of this Act, all the estate, property, right and interest by such mortgage vested in the mortgagee, his heirs, executors, administrators

nistrators or assigns, shall, without any transfer or release, or any other act or deed whatsoever, immediately cease and determine.

297. Mode of paying off mortgages.

AND in order that no undue preference may be given in paying off any mortgages; BE it Enacted, That whenever the Commissioners shall be enabled to pay off one or more out of the number of mortgages of the sewer rates, the paving rates, or the water rates respectively, or a part of the money secured on any such mortgage, they shall decide the order in which such mortgages shall be paid off by lot or ballot, and shall cause a notice signed by their clerk to be given to the person entitled to the money, to be paid off pursuant to such lot or ballot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified at the expiration of *Six* Months from the date of giving such notice.

298. Repayment of money borrowed at a time and place agreed upon.

And be it Enacted, That the Commissioners may, if they think proper, fix a period for the repayment of all principal monies borrowed on mortgage under the provisions of this Act, with the interest thereof; and in such case the Commissioners shall cause such period to be inserted in the mortgage deed; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall on demand be paid to the party entitled to receive such principal money and interest; and if no other place of payment be inserted in such mortgage deed, such principal and interest shall be payable at the office of the Commissioners.

299. Repayment of money borrowed when no time or place has been agreed upon.

And be it Enacted, That if no time be fixed in the mortgage deed for the repayment of the money so borrowed, the party entitled to receive such money may, at the expiration or at any time after the expiration of *Twelve* Months from the date of such mortgage, demand payment of the principal money thereby secured, with all arrears of interest, upon giving Six Months' previous notice for that purpose; and in the like case the Commissioners may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or creditor shall be delivered to the Clerk or left at the office of the Commissioners, and if given by the Commissioners shall be given either personally to such mortgagee or creditor, or left at his residence, or if such mortgagee or creditor be unknown to the Commissioners, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London Gazette.

300. Interest to cease on expiration of notice to pay off a mortgage debt.

And be it Enacted, That if the Commissioners shall have given notice of their intention to pay off any such mortgage at a time when the same may lawfully be paid off by them, then at the expiration of such

such notice all further interest shall cease to be payable on such mortgage, unless on demand of payment made pursuant to such notice, or at any time thereafter, the Commissioners shall fail to pay the principal and interest due at the expiration of such notice on such mortgage.

301. Mortgages in arrear may be enforced by the appointment of a receiver.

And be it Enacted, That it shall be lawful for any mortgagee, or other person entitled to receive payment of the money secured by any mortgagee to enforce the payment of the principal money and interest due on any mortgage authorized by the provisions of this Act, by applying for the appointment of a receiver in the manner hereinafter provided; but in order to authorize the appointment of such receiver, the amount of money owing to the mortgagee or mortgagees, or creditor or creditors, by whom the application is made, shall not be less than *One thousand Pounds.*

302. Receiver may be appointed if arrear remains unpaid for the time prescribed.

And be it Enacted, That if within Six Months after the principal money or any interest owing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee, or other creditor as aforesaid, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the Superior Courts of law or equity, may, if his debt amount to the sum of *One thousand Pounds* alone, or if his debt does not amount to that sum, he may, in conjunction with other mortgagees whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the said sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

303. Mode of appointing receiver.

And be it Enacted, That every application for a receiver shall be made to *Two* Justices, and on any such application it shall be lawful for such Justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the rates and assessments, liable to the payment of such interest, or principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the rates and assessments, be fully paid; and upon such appointment being made, all such rates and assessments as aforesaid, shall be paid to and received by the person so to be appointed, who is hereby empowered to give good and sufficient discharges for the same; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest and costs, have been so received, the power of such receiver shall cease.

304 Proof of debts in bankruptcy.

And be it Enacted, That if any person against whom the said Commissioners shall have any claim or demand become bankrupt, or take the benefit of any Act for the Relief of Insolvent Debtors, it shall be lawful for the Clerk or Treasurer of the said Commissioners, in all proceedings against the estate of such bankrupt or insolvent, or under any fiat, sequestration or act of insolvency against such bankrupt or insolvent, to represent the said Commissioners, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such Clerk or Treasurer, and not of the said Commissioners.

305. Tender of amends.

And be it Enacted, That if any party shall have committed any irregularity, trespass or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority thereby given, and if before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made, it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit; and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

306. Provision for damages not otherwise provided for.

And be it Enacted, That in all cases where any damages, costs or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by *Two* Justices; and if the amount so ascertained be not paid by the said Commissioners or other party liable to pay the same within *Seven* Days after demand, the amount may be recovered by distress of the goods of the said Commissioners or other party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them, on application, shall issue their warrant accordingly.

307. Method of proceeding before Justices in questions of damages, &c.

And be it Enacted, That where in this Act any question of compensation, expenses, charges or damages, is referred to the determination of any *One Justice*, or more, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before *One Justice* or before *Two* Justices, as the case may require, at a time or place to be named in such summons; and upon the appearance of such parties, or in the absence of them, upon proof of due service of the summons, it shall be lawful for such *One Justice*, or such *Two* Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them,

and

and their witnesses on oath; and the costs of every such inquiry shall be in the discretion of such Justices, and they shall determine the amount thereof.

308. Publication of penalties.

And be it Enacted, That the said Commissioners shall publish the short particulars of the several offences for which any penalty is imposed by this Act, or by any bye-law of the said Commissioners, affecting other persons than the officers or servants of the said Commissioners, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous place in the office of the said Commissioners, and where any such penalties are of local application, shall cause such boards or papers to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

309. Penalty for defacing boards used for such publication.

And be it Enacted, That if any person pull down or injure any board put up or required by this Act, for the purpose of publishing any bye-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding *Five Pounds*, and shall defray the expenses attending the restoration of such board.

310. Penalties to be summarily recovered before Two Justices.

And be it Enacted, That every penalty or forfeiture imposed by this Act, or by any bye law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before *Two* Justices; and on complaint being made to any Justice he shall issue a summons, requiring the party complained against to appear before *Two* Justices at a time and place to be named in such summons: and every such summons shall be served on the party offending, either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for *Two* Justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them, and upon proof of the offence, either by the confession of the party complained against, or upon the oath of One credible Witness or more, it shall be lawful for such Justices to convict the offender, and upon such conviction to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction, as such Justices shall think fit.

311. Penalties may be levied by distress.

And be it Enacted, That if, upon any such adjudication as aforesaid, the amount of the penalty or forfeiture, and of such costs as aforesaid, be not forthwith paid, the amount of such penalty and costs may be levied by distress; and such Justices, or either of them, may issue their or his warrant of distress accordingly.

312. Imprisonment in default of distress.

And be it Enacted, That it shall be lawful for any such Justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture, and costs, unless the offender give sufficient security, by way of recognizance or otherwise, to the satisfaction of the Justice, for his appearance before him on the day appointed for such return, such day not being more than *Eight* Days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Justice whereon to levy such penalty or forfeiture, and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justice, then such Justice may, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

313. Distress, how to be levied.

And be it Enacted, That where in this Act any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

314. Distress not unlawful for want of form.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

315. Application of penalties.

And be it Enacted, That the Justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than *One-half* thereof to the

the informer, and shall award the remainder to the said Commissioners, to be by them used and applied to the purposes of this Act as to them shall appear fit, and shall order the same to be paid over to the proper officer for that purpose.

316. Penalties to be sued for within Six Months.

And be it Enacted, That no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this Act, for any offence made cognizable before a Justice, unless the complaint respecting such offence shall have been made before such Justice within *Six* Months next after the commission of such offence.

317. Damage to be made good in addition to the penalty.

And be it Enacted, That if, through any act, neglect or default on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the said Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the Justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same may be levied by distress, and such Justices, or one of them, may issue their or his warrant accordingly.

318. Penalty on witnesses making default.

And be it Enacted, That it shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such Justice, every such person shall forfeit a sum not exceeding *Five Pounds* for every such offence.

319. Transient offenders.

And be it Enacted, That it shall be lawful for any officer or agent of the said Commissioners, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or agent, and convey him with all convenient despatch before some Justice, without any warrant or other authority than this Act; and such Justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

320. Form of conviction.

And be it Enacted, That the Justices before whom any person shall be convicted of any offence against this Act, may cause the conviction

to be drawn up according to the form in the Schedule (H.) to this Act annexed.

321. Proceedings not to be quashed for want of form.

And be it Enacted, That no proceeding in pursuance of this Act shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the Superior Courts, except as hereinbefore specially provided.

322. Parties allowed to appeal to Quarter Sessions on giving security.

And be it Enacted, That if any party shall feel aggrieved by any determination or adjudication of any Justice with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the general quarter sessions for the county or borough in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within *Four* Months next after the making of such determination or adjudication, nor unless *Ten* Days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such appeal, and to abide the order of the Court thereon.

323. Court to make such order as they think reasonable.

And be it Enacted, That at the quarter sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

324. When district is within different jurisdictions, appeal will lie to either at the option of the appellant.

AND whereas in divers cases an appeal is given under the provisions of this Act to the General or Quarter Sessions of the Peace for the county or borough in which a town or district is situate, and it may happen that the whole of such town or district is not situate in any one county or borough; BE it Enacted, That in any such case it shall be lawful for an appellant to prosecute his appeal in any Court of General or Quarter Sessions of the Peace having jurisdiction over a part only of such town or district.

325. Interpretation of Act.

And be it Enacted, That in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say)

Words

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Number.

Words importing the masculine gender only shall include females, unless where the word male is used. Gender.

The word "Month" shall mean calendar month. Month.

The word "Person" shall include corporations, whether aggregate or sole. Person.

The words "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster*, and shall include the Court of Common Pleas at *Lancaster*. Superior Courts.

The words "General or Quarter Sessions of the Peace," (for any county or borough), shall extend to and be construed to include the General or Quarter Sessions held for any county, division of a county, riding, borough, liberty, precinct, county of a city, city, county of a town, cinque port, or town corporate. General or Quarter Sessions of the Peace.

The word "Justice" shall mean Justice of the Peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such Justice shall arise, and who shall not be interested in the matter, and where any matter shall be authorized or required to be done by Two Justices. Justice.

The expression "Two Justices" shall be understood to mean two Justices assembled and acting together in petty sessions, or one Stipendiary or Police Magistrate. Two Justices.

The word "Oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath. Oath.

The word "Trustee" shall include Commissioners, Corporations and other like bodies of persons. Trustee.

The words "Town or District" shall mean any town, district or other place made subject to this Act by any Order in Council. Town or District.

The word "Street" shall include any square, street, court, alley, footpath, footway, highway, lane, road, thoroughfare, public passage or other place within any town or district. Street.

The expression "the said Commissioners" shall mean the Commissioners for the time being appointed for any town or district under the provisions of this Act. Commissioners.

The expression "the said Inspector" shall mean any person appointed by one of Her Majesty's Principal Secretaries of State to the office of Inspector under the provisions of this Act. Inspector.

326. And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament. Act may be amended.

SCHEDULES

To which the foregoing ACT refers.

SCHEDULE (A. No. 1.) § 18.

Alphabetical List of the occupiers of property situate in the parish of in the town [or district, as the case may be] of rated to the relief of the poor in a certain rate or assessment made for the said parish on the day of in the year of our Lord 18

[*Or if the town or district be divided into wards*]

Alphabetical List of the occupiers of property situate in the parish of in the town [or district, as the case may be] of within the ward called Ward there, rated to the relief of the poor in a certain rate or assessment made for the said parish on the day of in the year of our Lord 18

Witness our hands,

A. B. } Oversers of the Poor for
C. D. } the said Parish.

No. on Rate.	Christian Name and Surname of Occupiers in full.	Situation of Property.	Rateable Value.	Total Number of Votes.
			£.	
824.	Amesbury, Joseph - - -	Devonshire-street - - -	120 }	5
426.	Same - - - - -	Caroline-mews - - -	40 }	
27.	Brendon, Peter - - -	Tavistock-square - - -	18	1

SCHEDULE (A. No. 2.) § 18.

Alphabetical List of the owners of property situate in the parish of in the town [or district, as the case may be] of the occupiers whereof are rated to the relief of the poor in a certain rate or assessment made on the day of in the year of our Lord 18

[*Or if the town or district is divided into wards*]

Alphabetical List of the owners of property situate in the parish of in the town [or district, as the case may be] of within the ward called Ward there, the occupiers whereof are rated to the relief of the poor in a certain rate or assessment made for the said parish on the day of in the year of our Lord 18

Witness our hands,

A. B. } Overseers of the Poor for
C. D. } the said Parish.

No. on Rate, denoting the Assessment of the Property.	Christian Name and Surname of Owners in full.	Christian Name and Surname of Occupiers in full.	Situation of Property.	Rateable Value.	No. of Votes.
				£.	
37.	Attwood, Edward -	Bayly, Edward -	Chesil-street -	48 }	2
224.	Same - - -	Heath, William -	East-street - -	34 }	
34.	Oakly, William -	Braine, Hannah -	St. Thomas-street -	18	1

SCHEDULE (B. No. 1.) § 21.

ALPHABETICAL List of the occupiers of property situate in the town [or district, as the case may be] of whose names appear on the rates made for the purposes of the Statute 8 & 9 VICTORIA, c. previously to the day of in the year of our Lord 18 and who are entitled to vote at the election of Commissioners for the said town [or district]:

[*Or if the town or district is divided into wards*]

ALPHABETICAL List of the occupiers of property situate in the ward of the town [or district, as the case may be] of whose names appear on the rates made for the purposes of the Statute 8 & 9 VICTORIA, c. previously to the day of in the year of our Lord 18 who are entitled to vote at the election of Commissioners for the said ward.

Witness my hand this day of 18

{Clerk to the Commissioners for the town of [or district of .]

No. on Rates.	Christian Name and Surname of Occupiers in full.	Situation of Property.	Rateable Value.	Total Number of Votes.
			£.	
824	Amesbury, Joseph - - -	Devonshire-street - - -	120	5
426	Same - - - - -	Caroline-mews - - -	40	
27	Brendon, Peter - - -	Tavistock-square - - -	18	1

SCHEDULE (B. No. 2.) § 21.

ALPHABETICAL List of the owners of property situate in the town [or district, as the case may be] of whose names appear on the rates made previously to the day of in the year of our Lord 18 for the purposes of the Statute 8 & 9 VICTORIA, c. and who are entitled to vote at the election of Commissioners for the said town, [or district]:

[*Or if the town or district is divided into wards*]

ALPHABETICAL List of the owners of property situate in ward of the town [or district, as the case may be] of whose names appear on the rates made previously to the day of in the year of our Lord 18 for the purposes of the Statute 8 & 9 VICTORIA, c. ; and who are entitled to vote at the election of Commissioners for the said ward.

Witness my hand this day of 18

{Clerk to the Commissioners for the town of [or district of]

No. on Rate denoting the Assessment of the Property.	Christian Name and Surname of Owners in full.	Christian Name and Surname of Occupiers in full.	Situation of Property.	Rateable Value.	No. of Votes.
				£.	
37	Attwood, Edward -	Bayly, Edward - -	Chesil-street - -	40	2
224	Same - - -	Heath, William - -	East-street - -	34	
34	Oakly, William -	Braine, Hannah -	St. Thomas-street -	18	1

SCHEDULE (C.) § 22.

VOTING PAPER 18 .

Town of
[or,
District of]

Voting Paper for the Town [or, District] of
[*Or if divided into wards*]
Voting Paper for Ward, in the Town [or, District] of

Names of the Persons voted for as Commissioners.	Christian Name and Surname of Voter.	Description of Property.	Number of Votes: As Owner.	Number of Votes: As Occupier.
Thomas Waters - -	Thomas Thring	House in East-street -	2	2
George Paget - - -		Garden in High-street	1	
&c.				

I vote for the persons named in the above List, as Commissioners for this town [or, District or Ward, as the case may be.]

(signed)
[Here the Name of the Voter should be written.]

SCHEDULE (D.) § 268.

FORM of Rate.

District No. 1, [as the case may be]

An Assessment to the Sewer Rate [or, Paving Rate, &c., as the case may be], for the District No. 1, Situate in the Town of [or, District of, as the case may be] made this day of in the year of our Lord 18 after the rate of Three-pence in the pound.

No. on the Rate.	Name of Person rated.	Name of the Owner of Property rated.	Description and Situation of Property.	Gross Annual Value.	Full net Annual Value.	Rate at 3 *d.* in the Pound.

Signed by us, this day of in the year of our Lord

A. B.
C. D.
E. F.
G. H.
I. K.
L. M.
} Commissioners for Waters and Sewers, for the Town [or, District] of .

SCHEDULE (E.) § 276.

FORM of WARRANT of DISTRESS for the Recovery of a Rate made payable by this Act.

County of [or Borough, &c.] to wit. } To the Commissioners for Waters and Sewers for the Town [or District] of and to their Collectors of Rates.

Whereas complaint hath been duly made by one of the collectors of rates to the Commissioners for Waters and Sewers for the said town [or district] that of, &c., hath not paid and hath refused to pay the sum of duly assessed upon him in and by a certain rate for the said town [or district], on or about the day of in the year of our Lord 18 bearing date and duly made according to the directions and for the purposes of an Act passed in the Session of Parliament held in the year of the reign of Her Majesty Queen VICTORIA, intituled, &c. [here set out the title of this Act], although the same hath been duly demanded of him: And whereas it appears to me one of Her Majesty's Justices of the Peace in and for the said county [or borough, &c.] as well upon the oath of one of the said collectors of rates, as otherwise, that the said sum of hath been duly demanded in writing by him from the said and that the said hath refused to pay the same for the space of Fourteen Days after such demand made, and doth refuse to pay the same; and whereas the said having appeared before me, in pursuance of my summons for that purpose, hath not shown to me any sufficient cause why the same should not be paid [or, and whereas it hath been duly proved to me upon oath that the said hath been duly summoned to appear before me, to show cause why he refuseth to pay the said rate or assessment, but he, the said hath neglected to appear according to the said summons, and hath not shown to me any sufficient cause why the same should not be paid.] These are, therefore, in Her Majesty's name, to command you to levy the said sum of by distress of the goods and chattels of the said and if the same shall not be paid within the space of days next after such distress by you taken, together with the reasonable charges of taking and keeping the same, that then you do sell the said goods and chattels by you distrained, and out of the money arising by such sale that you do detain the sum of and also your reasonable charges of taking, keeping and selling the said distress, rendering to him, the said the overplus on demand; and if sufficient distress cannot be found of the goods and chattels of the said whereon to levy the said sum of that then you certify the same to me, together with this warrant, to the end that such further proceedings may be had therein as to the law doth appertain. Given under my hand and seal the day of in the year of our Lord 18

(L. S.)

SCHEDULE (F.) § 291.

FORM of MORTGAGE DEED.

THE Commissioners of Waters and Sewers for the town [or district] of

Mortgage No. £.

By virtue of [here name this Act] we, the Commissioners for Waters and Sewers for the town [or district] of in consideration of the sum of Pounds, paid to us by A. B., of do assign unto the said A. B., his

his executors, administrators and assigns, all the rates, tolls and sums of money arising in the said town [or, district] of [or in that separate district called the district in the said town or district of] by virtue of the said Act, and all the estate, right, title and interest of the said Commissioners in the same: To hold unto the said A. B., his executors, administrators and assigns, until the sum of together with interest for the same, at the rate of for every One hundred Pounds by the year, be satisfied [the principal sum to be repaid at the end of years from the date hereof *(in case any period be agreed upon for that purpose.)*]

Given under our common seal, this day of in the year of our Lord

(L. S.)

SCHEDULE (G.) § 294.

FORM of TRANSFER of MORTGAGE.

I., A. B., of in consideration of the sum of paid to me by G. H., of do hereby transfer to the said G. H., his executors, administrators and assigns, a certain mortgage, Number made by the Commissioners for Waters and Sewers for the town [or, district] of bearing date the day of for securing the sum of Pounds and interest [*or if such transfer be by indorsement*, the within security], and all my right, estate and interest in and to the money thereby secured, and in and to the rates, tolls, money and property thereby assigned.

In witness whereof, I have hereunto set my hand and seal, this day of in the year of our Lord

(L. S.)

SCHEDULE (H.) § 320.

FORM of CONVICTION.

to wit. } BE it Remembered, That on the day of in the year of our Lord A. B. is convicted before us Two of Her Majesty's Justices of the Peace for the county [or, borough, &c.] of [here describe the offence generally, and the time and place when and where committed], contrary to the [here name this Act].

Given under our hands and seals the day and year first above written.

(L. S.)

(L. S.)

COMMONS INCLOSURE BILL.

Arrangement and List of Clauses.

The Clauses from 1 to 10 inclusive relate to the constitution of the Commission, the provisions for Annual and Special Reports, and its general powers.

1. Appointment of Commissioners.
2. Chairman of Commissioners. Style of Commissioners. To have a common seal.
3. Commissioners to make annual Reports.
4. Power to appoint and remove Assistant Commissioners, &c.
5. Appointments under this Act limited to Five Years.
6. Salaries and Allowances.
7. Allowances and Salaries to be paid out of the Consolidated Fund.
8. Commissioners and Assistant Commissioners to make a Declaration.
9. Documents of the Tithe Commission may be used. Power to summon Witnesses.
10. Commissioners may delegate powers to Assistant Commissioners.

Clauses 11 to 14.—The descriptions of Land subject to Inclosure under the Act, and those wholly exempted from its operation, and those in relation to which the special authority of Parliament will be required.

11. Descriptions of Land subject to be inclosed under this Act.
12. Wastes of Manors and Lands subject to indefinite common rights at all times, not to be inclosed without previous direction of Parliament.
13. Land within certain distances of large towns not to be inclosed without the previous direction of Parliament.
14. Village Greens not to be inclosed, but provision may be made for preserving the surface and fixing boundaries.

Clauses 15 to 23.—Show the persons whose consents and dissents are to be regarded in all proposed Inclosures, and the manner in which their proportional interests are to be estimated for the purposes of consents, dissents and applications.

15. Persons interested in Lands for purposes of applications, &c.
16. Where the Crown is interested, who shall be substituted.
17. Where the Duke of Cornwall is interested, who shall be substituted.
18. Provision for persons jointly interested.
19. In case of disability, Commissioners to name substitutes.
20. Attornies may be appointed by persons interested.
21. Proportional Interests, how estimated.
22. Power to equalize Assessments for estimating proportional value.
23. Proportional Interests of Lords of Manors.

Clauses 24 to 31.—Form of Application to the Commissioners; their proceedings upon Applications; the conditions which may be prescribed by them, and the consents to be required.

24. Commissioners to frame Forms of Applications, &c.
25. Upon application to the Commissioners, an Assistant Commissioner to inquire into expediency of proposed Inclosure.
26. Assistant Commissioner to report on application.
27. Commissioners to embody the conditions of proposed Inclosure in a provisional order, and to take consents of parties interested.
28. Separate applications for separate Tracts.
29. Consent of the Lord of the Manor.
30. Allotments for exercise and recreation may be required as conditions of Inclosures.
31. Allotments for labouring poor may be required as conditions of Inclosures.

CLAUSE 32—Provides that the Acts founded on the Commissioners' Reports shall not be considered private Acts.

32. Acts for the Inclosure of Lands in pursuance of the Reports of the Commissioners to be deemed Public General Acts.

CLAUSES 33 to 35—Relate to the appointment of the Valuer by whom the details of the Inclosure are to be settled, and to the instructions which the Owners, or on their default the Commissioners, may give him for his guidance.

33. Meeting for appointing Valuer.
34. Instructions to Valuer.
35. Form of Declaration by Valuer.

CLAUSES 36 to 41—Relate to the Settlement of Boundaries.

36. Power to set out Boundaries of Parishes. Appeal on questions of Boundary.
37. Non-attendance of Jurymen.
38. Juries to be subject to regulations concerning Juries returned to try issues in Courts of Record at Westminster.
39. Costs of Appeal.
40. Security for Costs to be taken by the Commissioners.
41. Power to straighten Boundaries.

CLAUSES 42 to 50.—The proceedings of the Valuer in adjudicating on Claims.

42. Valuer to hold Meetings.
43. Claims to be delivered in writing.
44. Statement of Claims to be deposited for examination. Claims to be heard and determined by Valuer, subject to appeal to the Commissioners.
45. Titles not to be determined by Valuers, Commissioners or Assistant Commissioners.
46. Provisions for Encroachments within 20 years.
47. School-houses, &c. not to be deemed encroachments.
48. Encroachments of 20 years' standing to be deemed ancient Inclosures.
49. Rights in respect of Tofts to be allowed.
50. Rights not sustainable at law to be allowed upon proof of 60 years' usage.

CLAUSES 51 to 56—Provision for revision of the Proceedings of the Valuer, and Appeals by unsatisfied claimants.

51. Schedule of Claims allowed by Valuer to be made and deposited. Claims may be reheard by Commissioners or an Assistant Commissioner.
52. Appeal against the determination of the Commissioners.
53. Determination of Commissioners not appealed against conclusive.
54. Actions not to abate.
55. Commissioners may award Costs.
56. Differences may be submitted to Arbitration.

CLAUSES 57 to 67.—Provisions for making Drains, public and private Roads, and other matters for the general improvement of the Land to be inclosed previously to the actual setting out of Allotments.

57. Power to Valuer to make Watercourses, &c.
58. Power to alter Roads and Ways.
59. Appeal to Quarter Sessions.
60. Trial of Appeal.
61. Roads to be fenced.
62. Expenses of making and altering Roads.
63. Roads to be repaired by the Parish after certificate by Valuer.
64. Private Roads.
65. Rights of Common may be suspended.
66. Course of husbandry may be directed.
67. Compensation for growing crops.

CLAUSES 68 to 71.—Directions for Allotments, for repair of Roads, for Exercise, and for other public purposes, and for the Labouring Poor.

68. Allotment for repair of Roads.
69. Allotment for public purposes.
70. Provision for awarding Allotment for exercise, &c. to individuals, subject to the obligation of permitting it to be used.
71. Allotments for the labouring poor may be made, subject to a Corn rent-charge, to vary and be recoverable as a Tithe rent-charge.

CLAUSES 72 to 82.—Allotments to the Lord of the Manor and to the Commoners, with provision for the allotment of old Inclosures with consent.

72. Allotment to the Lord.
73. Allotment of residue.
74. The Rent-charges payable out of Allotments for the Labouring Poor to be allotted to persons entitled under the Inclosure.
75. Separate Allotments to be made in respect of separate Titles.
76. Several Allotments may by consent be laid together.
77. Cultivated Land and Buildings to be allotted to the Proprietor.
78. Regard to be had to the situation of Homesteads.
79. Allotments to be fenced.
80. Allotments may be made to Purchasers.
81. Allotments to be made to Representatives of party dying.
82. Old Inclosures may be allotted with consent.

CLAUSES 83 to 85.—Special provision for the case of Freemen and others entitled, not individually but as classes.

83. Allotments to Freemen and other classes of persons entitled to common rights.
84. Power to sell such Allotments.
85. Meeting of persons entitled for giving instructions to Valuer.

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86. Partitions may be made.
87. Costs of Partition.
88. Exchanges.

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89. Wills and Settlements not to be affected.
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92. Seignories not affected, except with consent.
93. Minerals under regulated Pastures may be reserved, while minerals under Lands to be held in severalty are relinquished.
94. Right to Minerals under Land inclosed existing distinct from the Property in the surface, and not compensated upon Inclosure, not affected.

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95. Trees to be allotted with the Land.
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105. Recovery of Gardens on non-payment of Rent.
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107. Rents of Allotment how to be applied.
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110. Regulated Pastures may be set out.
111. Conversion into regulated Pasture to be deemed an Inclosure.
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113. Property of the Soil of regulated Pastures.
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115. Duties of Field Reeves.
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117. Expenses to be raised by Rate.
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CLAUSES 120 to 139.—Power to make Surveys to raise Expenses and other special powers.

120. Power to enter Land for Surveys, &c.
121. Expenses of Inclosures.
122. Remedies in case of nonpayment of Expenses.
123. Power to make additional Rate.
124. Commissioners may remove Valuers.
125. Repayment to Consolidated Fund.
126. Persons attending meetings to pay their own Expenses.
127. Expenses of Witnesses.
128. Power to mortgage Allotments.
129. Power to sell parts of Allotments.
130. Sales of parts of Allotments how to be made.
131. Commissioners to receive and apply Purchase Money.
132. Application of Compensation Money of parties under disabilities.
133. Investment of surplus when 200 *l.* or upwards.
134. Payment of Dividends in the meanwhile.
135. Application of money under 200 *l.*
136. Under 20 *l.*
137. Sale of Land by Valuer for Expenses.
138. Conveyances to be made by Commissioners.
139. Application of Purchase Monies.

CLAUSE 140.—Power, under certain restrictions, to cause the Land to be sold instead of being allotted.

140. Power to sell instead of allotting Land.

CLAUSE 141.—Provision for Special Notice to Reversioners and others (whose consent is not in every case required) where the Commissioners see occasion.

141. Notice may be given to Reversioners.

CLAUSE 142.—The custody of the Award copies how to be furnished.

142. Copies of Award to be made and deposited.

CLAUSES 143 to 146.—Provide for Exchanges and Divisions of intermixed Land in cases where an Inclosure is not in progress.

143. Exchanges may be made of Land not subject to be inclosed.
144. Division of intermixed Lands.
145. Inconvenient Allotments for the Poor and public purposes may be exchanged for Land more convenient.
146 Expenses of Exchanges and Divisions.

Clauses 147 to 150.—Remedies for defective Awards and completion of Inclosures left unfinished under former Act.

147. Commissioners may remedy defects and omissions of Awards under local Acts of Inclosure, or under 6 & 7 Will. 4, c. 115.
148. Commissioners may revive powers under Local Inclosure Acts lost by lapse of time or otherwise.
149. Commissioners may appoint a person to complete proceedings in an imperfect Inclosure.
150. Commissioners may confirm Awards or Agreements made under supposed authority of 6 & 7 Will. 4, c. 115.

Clauses 151 to 158.—Recovery of Penalties and other usual Clauses.

151. Penalties and Forfeitures, how recoverable.
152. Distress, how to be made.
153. Distress not unlawful for informality.
154. Notices, how given.
155. Advertisements and Awards free of Duty.
156. Persons giving false evidence, &c. guilty of a Misdemeanor.
157. Limitation of Actions.
158. Proceedings not to be removed by Certiorari.
159. Interpretation Clause.
160. Act to extend only to England and Wales.
161. May be amended in present Session.

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B I L L

To facilitate the Inclosure and Improvement of Commons and Lands held in common; the Exchange of Lands, and the Division of intermixed Lands; to provide Remedies for defective or incomplete Executions, and for the Non-execution of the Powers of General and Local Inclosure Acts, and to provide for the Revival of such Powers in certain cases.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to facilitate the Inclosure and Improvement of Commons and other Lands now subject to rights of property which obstruct cultivation and the productive employment of labour, and to facilitate such exchanges of Lands and such divisions of Lands intermixed or divided into inconvenient parcels, as may be beneficial to the respective owners, and it is also expedient to provide remedies for the defective or incomplete execution, and for the non-execution of powers created by General and Local Acts of Inclosure, and to authorize the revival of such powers in certain cases; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for one of Her Majesty's Principal Secretaries of State to appoint any *Two* fit persons to be Commissioners under this Act, and at pleasure to remove the Commissioners so appointed, or either of them; and upon every vacancy in the office of such Commissioner some other fit person shall be appointed to such office in like manner; and the Commissioners so to be appointed shall, with the First Commissioner of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, be the Commissioners for carrying this Act into execution; and during any vacancy in the office of Commissioner under this Act, it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

1. Appointment of Commissioners.

2. Chairman of Commissioners.

Style of Commissioners.

To have a Common Seal.

And be it Enacted, That the said First Commissioner of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being shall be the Chairman of the Commissioners acting in the execution of this Act; and such Commissioners shall be styled "The Inclosure Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any *Two* of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the Commissioners shall cause to be made a seal of the said Board, and shall cause to be sealed therewith all awards and orders made or confirmed by the Commissioners in pursuance of this Act; and all such awards and orders and other instruments proceeding from the said Board, or copies thereof purporting to be sealed with the seal of the said Board, shall be received in evidence without any further proof thereof; and no award or order of the Commissioners under the authority of this Act, shall be of any force unless the same shall be sealed as aforesaid.

3. Commissioners to make annual Reports.

And be it Enacted, That the Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings as such Principal Secretary of State shall require, and shall on the *First day of January* in every year, send to one of the Principal Secretaries of State a general report of their proceedings, specifying the applications which may have been made to them under the provisions of this Act, and the several cases in which they shall have authorized Inclosures, and also the cases in which they shall be of opinion that proposed Inclosures which may not be made without the direction of Parliament would be expedient, and such report shall separately distinguish all such proposed Inclosures as relate to Lands situate within *Ten* Miles of the city of London, and within such respective distances of other cities or towns as hereinafter mentioned, and shall state in each such case the special grounds on which they shall be of opinion that such Inclosure shall be expedient, and as well in the cases in which they shall have authorized Inclosures as in the other cases aforesaid, such report shall state the extent of the Land authorized and proposed to be inclosed, with such other particulars as hereinafter directed; and such report shall also specify the progress which shall have been made in Inclosures which the Commissioners may have authorized, and in the Inclosures which Parliament may have directed to be proceeded with; and every such report shall be laid before both Houses of Parliament within *Six* Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting of Parliament; and such Commissioners may from time to time send to one of the Principal Secretaries of State

State such special reports in relation to all or any of the matters aforesaid as they may think fit.

4. Power to appoint and remove Assistant Commissioners, &c.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to appoint a sufficient number of persons to be Assistant Commissioners, and also a Secretary, and such Clerks, Messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, Secretary, Clerks, Messengers and officers, or any of them; and on any vacancy in any of the said offices, to appoint some other person to the vacant office, and the persons so appointed shall assist in carrying this Act into execution, at such places and in such manner as the Commissioners may direct: Provided always, That no such appointment shall be made by the Commissioners unless the Lord High Treasurer or any Three or more of the Commissioners of Her Majesty's Treasury shall in the case of each such appointment consent thereto.

5. Appointments under this Act limited to Five Years.

And be it Enacted, That no Commissioner or Assistant Commissioner, Secretary or other officer, or person so to be appointed, shall hold his office for a longer period than *Five* Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of *Five* Years and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

6. Salaries and Allowances.

And be it Enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of Her Majesty's Treasury to direct a salary, not exceeding by the year, to be paid to one of the Commissioners for the time being appointed under this Act, but, except as aforesaid, no salaries shall be paid to the Commissioners in respect of their appointments under this Act, and the allowances to the Assistant Commissioners, and the salaries of the Secretary, Clerks, Messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury, or any Three of them: Provided always, That the allowance to an Assistant Commissioner shall not exceed the sum of for every day he shall be actually employed or travelling in the performance of the duties of his office: Provided also, That the said Lord High Treasurer or Commissioners may allow to any Commissioner, Assistant Commissioner, Secretary, Clerk, Messenger or other officer, such reasonable travelling and other expenses as may be incurred by him in the performance of his duties under this Act, in addition to his salary or allowance (if any) respectively.

7. *Allowances and Salaries to be paid out of the Consolidated Fund.*

And be it Enacted, That the allowances and salaries of such Commissioner, Assistant Commissioners, Secretary, Clerks, Messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into execution not herein otherwise provided for, shall be paid by the Lord Treasurer or the Commissioners of Her Majesty's Treasury out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

8. Commissioners and Assistant Commissioners to make a Declaration.

And be it Enacted, That every Commissioner shall, before he shall enter upon the execution of his office, make the following declaration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act]:"

And every Assistant Commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner,") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

9. Documents of the Tithe Commissioners may be used. Power to summon Witnesses.

And be it Enacted, That all awards, apportionments, agreements, writings and maps in the custody of the Tithe Commissioners for England and Wales shall be open to the use and inspection of the Inclosure Commissioners for England and Wales, or any person by them authorized, and such copies of or extracts from such awards, apportionments, agreements, writings and maps as the Commissioners shall require, shall be furnished to them for the purposes of this Act; and that the Commissioners or any Assistant Commissioner, or any Valuer acting in the matter of an Inclosure under this Act, may, by summons under their or his hand, require the attendance of all such persons as they or he may think fit to examine upon any matter relating to any Inclosure or proposed Inclosure, or other proceeding under the authority of this Act; and also make any inquiries and call for any answer or return as to any such matter; and also administer or receive declarations, and examine all such persons upon declaration,

declaration, and cause to be produced before them or him, upon declaration, all court-rolls and all rate-books, instruments of tithe apportionment and other public writings, maps, plans and surveys of or belonging to any parish, or copies thereof respectively in anywise relating to any such matter: Provided always, That no such person shall be required, in obedience to any such summons, to travel more than *Ten* Miles from the place of his abode, or to attend in obedience to any such summons, unless the reasonable charges of his attendance shall have been paid or tendered to him.

10. Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners, or to any One or more of them, such of the powers hereby given to the Commissioners as the Commissioners shall think fit (except the power to confirm awards, or to do any act herein required to be done under the seal of the Commissioners), and the power so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner in pursuance of such delegated power shall be obeyed by all persons as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Descriptions of Land subject to be inclosed under this Act.

And be it Enacted, That all such Lands as are hereinafter mentioned; (that is to say) all Moors, Commons and Waste Lands, all Lands subject to rights of Common at all times, or during any time or season, or periodically, all open and common Arable Fields, all open and common Meadow or Pasture Lands and Fields, all gated and stinted Pastures in which the property of the soil or of some part thereof is in the owners of the cattle-gates and other gates or stints, or any of them, and also all gated and stinted Pastures in which no part of the property of the soil is in the owners of the cattle-gates or other gates or stints, or any of them, all Land held, occupied or used in common, either at all times, or during any time or season, or periodically, and either for all purposes or for any limited purpose, and whether the separate parcels of the several owners of the soil shall or shall not be known by metes or bounds or otherwise distinguishable; all Land in which the property or right of or to the vesture or herbage or any part thereof during the whole or any part of the year is separated from the property of the soil; and all lot Meadows and other Lands, the occupation or enjoyment of the separate lots or parcels of which is subject to interchange among the respective owners in any known course of rotation or otherwise, shall be Land subject to be inclosed under this Act.

12. Wastes of Manors and Lands subject to indefinite common rights at all times not to be inclosed without previous direction of Parliament.

Provided always, and be it Enacted, That no Waste Land of any Manor on which the tenants of such manor have rights of common, nor any Land whatsoever subject to rights of common which may be exercised at all times of the year for cattle levant and couchant upon other Land, or to any rights of common which may be exercised at all times of the year, and which shall not be limited by number or stints, shall be inclosed under this Act without the previous direction of Parliament in each particular case; and no Royal Forest, nor any part thereof, shall be deemed Land subject to be inclosed under this Act.

13. Land within certain distances of large towns not to be inclosed without the previous direction of Parliament.

Provided also, and be it Enacted, That no Land situate within Ten Miles of the city of London or within Two Miles of any city or town of Ten thousand inhabitants, or within Two Miles and a Half of any city or town of Twenty thousand inhabitants, or within Three Miles of any city or town of Thirty thousand inhabitants, or within Three Miles and a Half of any city or town of Seventy thousand inhabitants, or within Four Miles of any city or town of One hundred thousand inhabitants, shall be subject to be inclosed under the provisions of this Act, without the previous direction of Parliament in each particular case, upon such report of the Commissioners as herein provided, and in all such cases the number of inhabitants shall be ascertained by the then last Parliamentary Census thereof, and that the distance shall be measured in a direct line from the town-hall, if there shall be any town-hall, or if there shall be no town-hall, then from the cathedral or church if there shall be only one church, or if there shall be more churches than one, then from the principal market-place of any such city or town.

14. Village greens not to be inclosed, but provision may be made for preserving the surface and fixing boundaries.

And be it Enacted, That no town green or village green shall be subject to be inclosed under this Act, provided that in every case in which an inclosure of Lands in the parish in which such town green or village green may be situate shall be made under the authority of this Act, it shall be lawful for the Commissioners, instead of requiring that other Land be allotted for the purposes of exercise and recreation under the provisions contained, to direct that such town green or village green be allotted to the Churchwardens and Overseers of the Poor of such parish, in trust to allow the same to be used for the purposes of exercise and recreation, and the same shall be allotted and awarded accordingly, in like manner and with the like provisions for making or maintaining the fences thereof, and preserving the surface thereof, and draining and levelling the same where occasion shall require as hereinafter directed, concerning the allotments to be made for the purpose of exercise and recreation; and in every case in which such town green or village green shall adjoin Land subject to be inclosed under this Act, and shall not be separated from such Land

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by fences or known bounds, the Commissioners shall in the provisional order concerning such Inclosure set out a boundary line between such green and the adjoining Land, and shall in their annual general report mention and describe such boundary.

15. Persons interested in Lands for purposes of applications, &c.

And be it Enacted, That for the purposes of this Act, the persons interested in Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall be deemed to be the persons hereinafter mentioned, and no others; (that is to say) the persons who shall be in the actual possession or enjoyment or receipt of the rents and profits of any such Land or any part thereof, or any Common or common right thereon, or any Manor of which such Land or any part thereof shall be waste, (except any tenant for life or lives or for years holding under a lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and except any tenant for years whatsoever holding under a lease or agreement for a lease for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, and except any tenant from year to year at will or sufferance,) and that without regard to the real amount of interest of such persons; and in every case in which any such Land, Common or common right or Manor shall have been leased or agreed to be leased to any person or persons for life or lives or for years by any lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved; and in every case in which any such Land, Common or common right or Manor shall be in the possession of a tenant from year to year at will or sufferance, or shall have been leased or agreed to be leased for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be entitled to the said Land, Common or common right or Manor in reversion immediately expectant on the term created or agreed to be created by such lease or agreement for a lease respectively, or subject to the tenancy from year to year at will or sufferance, shall be deemed for the purposes of this Act to be the person interested as aforesaid in respect of such Land, Common or common right or Manor; and in every case in which any such Land, Common or common right or Manor as aforesaid shall have been leased or agreed to be leased to any person for life or lives or for years by any lease or agreement for a lease, in which a rent less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and of which the term shall have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be in the actual receipt of the rent reserved upon such lease or agreement for a lease, shall, jointly, with the person who shall be liable to the payment of such rent of such Land, Common or

common right or Manor be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively; and in every case in which any person shall be in possession or enjoyment or receipt of the rents or profits of any such Land, Common or common right or Manor under any sequestration, extent, elegit or other writ of execution, or as a receiver under any order of a Court of Equity, the person who, but for such writ or order, would have been in possession, enjoyment or receipt of the rents and profits shall, jointly with the person in possession, enjoyment or receipt, by virtue of such writ or order, be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively.

16. Where the Crown is interested, who shall be substituted.

And be it Enacted, That whenever Her Majesty shall be interested in Land as aforesaid, the First Commissioner of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, or in case Her Majesty shall be so interested in right of the Duchy of Lancaster, the Chancellor of the Duchy of Lancaster shall for the purposes of this Act, and to the extent of such respective interest, be substituted for the person interested as aforesaid.

17. Where Duke of Cornwall is interested, who shall be substituted.

And be it Enacted, That whenever the Duke of Cornwall shall be interested in Land as aforesaid, the Chancellor of the Duchy of Cornwall shall for the purposes of this Act, and to the extent of such interest, be substituted instead of the person interested as aforesaid.

18. Provision for persons jointly interested.

And be it Enacted, That whenever an interest in Land, according to the provisions of this Act, shall be vested in several persons as co-trustees or in joint tenancy, such persons shall for the purposes of this Act be considered as jointly interested and entitled to one vote only in respect of their joint interest, but any One or more of such persons may, unless the other or others of them shall dissent therefrom, act or vote under this Act, and the majority in number of any such persons may, notwithstanding any dissent of the minority, act or vote under this Act in the same manner as if all such persons had concurred; and whenever several persons as tenants in coparcenary or in common shall be so interested, each coparcener or tenant in common shall for the purposes of this Act, and to the extent of the value of his respective undivided share, be deemed separately interested and entitled to vote as if he were tenant in severalty.

19. In case of disability Commissioners to name substitutes.

And be it Enacted, That whenever any person interested in Land as aforesaid shall be an infant, lunatic, idiot, feme covert, or under any other legal disability, or beyond the seas, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners,

Commissioners, and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act be substituted in the place of such person so interested

20. Attornies may be appointed by persons interested.

And be it Enacted, That it shall be lawful for any person interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, by a Power of Attorney, given in writing under his hand, to appoint an agent to act for him for the purposes of this Act; and all things which by this Act are directed to be done by or with relation to any such person may be lawfully done by or with relation to the agent so duly authorized of such person; and every such agent shall have full power, in the name and on behalf of his principal, to sign, concur in and execute any application, or act, to signify consent or dissent, and to vote on any question arising out of the execution of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the Power of Attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be deposited in the office of the Commissioners; and any such Power of Attorney may be in the form following:

Form of Power.

"I, of
do hereby appoint of
to be my Attorney for all the purposes of an Act passed in the years of Her present Majesty, intituled, ."

21. Proportional interests, how estimated.

Provided always, and be it Enacted, That the proportional value of the respective interests of the several persons interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall, so far as relates to the power to sign any application, or to give any notice or consent, or to vote at any meeting under this Act, be estimated as hereinafter mentioned; (that is to say) where their interests shall be in respect of Land or other rateable property, then according to the proportional sums at which such Land or rateable property shall be rated to the relief of the poor; and when their interests shall be in respect of rights of Common enjoyed or claimed in respect of any Land, then according to the proportional sum at which the Land in respect of which they enjoy or claim such rights of Common shall be rated to the relief of the poor; but in case such interests shall be in respect of rights of Common in gross not rated to the relief of the poor, or in case from any other cause it shall appear to the Commissioners, or to the Assistant Commissioner presiding at any meeting, held for the purposes of this Act, impracticable or inequitable to estimate such proportional value in manner aforesaid, it shall be lawful for the Commissioners or such Assistant Commissioner to direct in what

manner such proportional value shall be estimated, regard being had to the circumstances of each particular case.

22. Power to equalize Assessments for estimating proportional value.

Provided also, and be it Enacted, That in case the Land subject to be inclosed under this Act, or the Lands or tenements in respect of which rights of Common therein may be claimed shall be situate in more than one parish, and it shall appear to the Commissioners that the assessments to the poor-rate of the respective parishes in which such Land is situate are calculated upon different principles, it shall be lawful for the Commissioners, on the application of any persons interested in such Land, to direct that for the purposes of this Act the respective assessments shall be deemed to be increased or decreased in such proportions as the Commissioners shall think fit.

23. Proportional interests of Lords of Manors.

And be it Enacted, That the proportional value of the interest of the Lord of a Manor, interested as Lord in any Land subject to be inclosed under this Act, or in case there shall be several Lords of a Manor, or Lords of several Manors so interested in any Land subject to be inclosed under this Act, the proportional value of the respective interests of such Lords shall, for the purposes aforesaid, be estimated in such manner as the Commissioners may direct.

24. Commissioners to frame forms of applications, &c.

And be it Enacted, That the Commissioners shall frame and cause to be printed and circulated as they shall see occasion, forms indicating the particulars of the information to be furnished to the Commissioners by persons proposing to inclose Land under the provisions of this Act, with reference to the extent and nature of the Land to be inclosed, to the mines, minerals or valuable strata (if any) under the same, to the questions of boundary (if any) concerning such Land or such mines, minerals or strata, to the numbers and occupations of the inhabitants of the parish or place, to its vicinity to or distance from any city or town or populous district, to the parties interested in the proposed Inclosure, and the numbers who have assented to or dissented from the application, to the nature of the rights which require the interference of Parliament, to the supposed advantages of the proposed Inclosure, to the allotments (if any) proposed to be made for exercise and recreation and for the labouring poor, and to the allotment (if any) agreed on or proposed to be made to the Lord of the Manor, in case the Lord of the Manor shall be entitled to the soil of the Land proposed to be inclosed in respect of his right and interest therein, and such other information as in the judgment of the Commissioners may assist them in forming an opinion on such application, and also such other forms as the Commissioners may deem requisite or expedient for facilitating proceedings under this Act.

25. Upon application to the Commissioners, an Assistant Commissioner to inquire

And be it Enacted, That any persons interested in Land subject to be inclosed, and proposing to inclose the same under this Act, may make application to the Commissioners to sanction such Inclosure, or to certify in their annual general Report the expediency of such Inclosure,

sure, as the case may require; and in case the Commissioners shall, on the statements contained in such application, think that the inclosure of such Land, or of some part thereof, may be found to be expedient, they shall refer such application to an Assistant Commissioner, who shall inspect the Land proposed to be inclosed, and inquire into the correctness of the statements in such application, and otherwise into the expediency of the proposed Inclosure; and such Assistant Commissioner shall hold a meeting or meetings to hear objections which may be made to the proposed Inclosure, and any information or evidence which may be offered in relation thereto, and may adjourn such meetings respectively, and shall cause notice to be given on the church door of the parish in which the Land proposed to be inclosed, or the greater part thereof, shall be situate, and also a like notice to be given, by advertisement, of the time and place of every such meeting *Fourteen* Days at least before every such meeting (meetings by adjournment only excepted).

into the expediency of proposed Inclosure.

26. Assistant Commissioner to report on application.

And be it Enacted, That the Assistant Commissioner to whom such application shall be referred, shall report in writing to the Commissioners the result of his inquiries, as to the statements contained in the application, and his opinion as to the expediency or inexpediency of the proposed Inclosure, with the reasons for such opinion; and in case he shall think such Inclosure expedient, he may specify any terms or conditions which may appear to him to be proper for the protection of any public interests, and of any mineral property or peculiar rights in relation to the Land proposed to be inclosed, and shall annex to his report a map or sketch of the Land proposed to be inclosed, and in case allotments for exercise and recreation or for the labouring poor should be made in the proposed Inclosure, such sketch shall show the place in which it shall appear to him that such allotments should be made.

27. Commissioners to embody the conditions of proposed Inclosure in a provisional order, and to take consents of parties interested.

And be it Enacted, That if on the report of the Assistant Commissioner, or after any further inquiries they shall think necessary in relation thereto, the Commissioners shall be of opinion, having regard as well to the health, comfort and convenience of the inhabitants of any neighbouring cities, towns, villages or populous places as to the advantage of the proprietors of the Land to which such application shall relate, that the proposed Inclosure would be expedient, the Commissioners, by provisional order under their seal, shall set forth the terms and conditions on which they shall be of opinion that the Inclosure should be made, and especially the quantity and situation of the allotments (if any) which, under the provisions of this Act, should be appropriated for the purposes of exercise and recreation and for the labouring poor, and in case the Lord of the Manor shall be entitled to the soil of the Land proposed to be inclosed, shall specify the share or proportion of the residue of the Land which, after provision made

for the payment of expenses, in case the expenses shall under the provisions hereinafter contained be so directed to be paid by sale of land, and after deducting the allotments to be made for public purposes, should be allotted to the Lord of the Manor in respect of his right and interest in the soil, either exclusively or inclusively of his right or interest in the mines or minerals under such Land, or inclusively or exclusively of any right of pasturage which may have been usually enjoyed by such Lord or his tenants, or any other right or interest of such Lord in the Land to be inclosed, as the case may appear to the Commissioners to require, or as the parties interested, with the approbation of the Commissioners, may have agreed; and in case there shall be any mineral property or any rights in relation thereto not vested in the Lord of the Manor, or other rights which shall appear to the Commissioners proper to be specially provided for upon such Inclosure, or to be excepted from the operation thereof, shall specify the provisions or exceptions which should be made in that behalf; and the Commissioners shall thereupon cause notice to be given of their intention to authorize the proposed Inclosure, or (as the case may be) to certify in their annual general Report the expediency of the proposed Inclosure, but upon the terms and conditions in such order expressed, and in case the consents required by this Act should be given within the time in such notice specified, or within any enlarged time which the Commissioners may allow for that purpose; and the Commissioners shall cause to be deposited for inspection a copy of such provisional order in or near the parish or place in which the Land proposed to be inclosed, or some part thereof, shall be situate, and may, in case they shall think fit, cause meetings to be holden by an Assistant Commissioner for the purpose of taking consents or dissents, or of ascertaining the interests of consenting or dissenting parties, or give such directions as to the mode of taking and verifying consents as they shall think fit; and in case it shall appear to the satisfaction of the Commissioners that persons, the aggregate amount of whose interests in the Land proposed to be inclosed shall not be less in value than *Two-thirds* of the whole interest in such Land, and the other persons, if any, whose consents may be necessary under the provisions hereinafter contained shall have consented to such Inclosure upon the terms and conditions in such order expressed, then, if the Land proposed to be inclosed cannot be inclosed under this Act without the previous direction of Parliament, the Commissioners shall in their next annual general report certify their opinion that the proposed Inclosure would be expedient, with such particulars in relation thereto, or to the terms and conditions aforesaid as they shall think necessary; and in case the Land proposed to be inclosed shall be Land to the Inclosure, of which under this Act the previous direction of Parliament is not hereby required, the Commissioners shall cause notice to be given on the church door, and by advertisement, of their intention

intention to proceed with such Inclosure under the provisions herein contained.

28. Separate applications for separate tracts.

And be it Enacted, That when it shall appear to the Commissioners that Land proposed to be inclosed under this Act shall be in part a tract of open and common Arable, Meadow or Pasture Lands or Fields, and in part a tract of Common or Waste Lands, subject to rights of Common, or shall otherwise consist of separate and distinct tracts subject to separate and distinct rights or classes of rights; and the persons interested in one of such tracts shall not be all interested in the other of them, it shall be lawful for the Commissioners to ascertain whether persons interested in each of such tracts whose interest shall not be less than *Two-thirds* in value of the whole interest therein, shall consent to the proposed Inclosure on the terms and conditions in their provisional order specified, and in case it shall thereupon appear that such proportion in value of the persons interested in any such tract as aforesaid shall not have consented, the said Commissioners shall not proceed further under this Act in respect of such tract, or certify in their annual general Report the expediency of the inclosure thereof, unless or until persons interested therein whose interest shall not be less than *Two-thirds* shall have consented thereto.

29. Consent of the Lord of the Manor.

Provided always, and be it Enacted, That when the Land to which such application shall relate shall be the Waste of any Manor or Land within any Manor to the soil of which the Lord of such Manor shall be entitled in right of his Manor, then unless there shall be some action, suit or controversy as to the title of such Manor, or the title of the Lord of such Manor to such Waste or Land, or there shall be conflicting claims to such Waste or Land, or there shall be more than one person interested in such Manor, according to the definition of this Act, the Commissioners shall not proceed to an Inclosure on such application, or certify in their annual general Report the expediency thereof, unless the person interested in the Land subject to be inclosed as aforesaid in right of such Manor, or his substitute under this Act, shall consent to such Inclosure; and where there shall be more than one person interested in such Manor, the Commissioners shall not proceed to an Inclosure, or certify as aforesid the expediency thereof, in case such persons, or the majority of such persons in respect of interest, shall signify their dissent within the time limited by the Commissioners.

30. Allotments for exercise and recreation may be required as conditions of Inclosure.

And be it Enacted, That in the provisional order of the Commissioners concerning the Inclosure under the provisions of this Act of any Waste Land of any Manor on which the tenants of such Manor have rights of Common, or of any other Land subject to rights of Common which

which may be exercised at all times of the year for cattle levant and couchant, or to any rights of common which may be exercised at all times of the year and which shall not be limited by number or stints, it shall be lawful for the Commissioners, if they shall so think fit, to require, and in their provisional order to specify as one of the terms and conditions of such Inclosure, the appropriation of an allotment for the purposes of exercise and recreation for the inhabitants of the neighbourhood not exceeding the quantity hereinafter mentioned applicable to each case; that is to say, where the Land to be inclosed shall be situate in any parish the population of which, according to the then last previous Parliamentary Census, shall amount to or exceed Ten thousand persons, Ten acres; where the Land to be inclosed shall be situate in any parish the population of which, according to such Census, shall amount to or exceed Five thousand persons and be less than Ten thousand persons, Eight acres; and where the Land to be inclosed shall be situate in any parish the population of which, according to such Census, shall amount to or exceed Two thousand persons and be less than Five thousand persons, Five acres; and in every case except as aforesaid, Four acres.

31. Allotments for labouring poor.

And be it Enacted, That in the provisional order of the Commissioners concerning the Inclosure under the provisions of this Act of any Waste Land of any Manor on which the tenants of such Manor have rights of Common, or of any Land whatsoever subject to rights of Common which may be exercised at all times of the year for cattle levant and couchant as aforesaid, or to any rights of Common which may be exercised at all times of the year, and which shall not be limited by number or stints, it shall be lawful for the Commissioners, if they shall so think fit, to require and specify as one of the terms and conditions of such Inclosure, the appropriation of such an allotment for the labouring poor as the Commissioners shall think necessary with reference to the circumstances of each particular case, such allotment, nevertheless, to be subject to a rent-charge, to be payable thereout to any person or persons who may be entitled to allotments under such Inclosure as hereinafter provided.

32. Acts for the Inclosure of Lands in pursuance of the reports of the Commissioners to be deemed public general Acts.

And be it Enacted, That in case by any Act of Parliament hereafter to be passed, it shall be enacted, that the Inclosures, the expediency of which shall have been certified by the Commissioners in their annual general Report as aforesaid, or any of them, be proceeded with, the same shall in every case be proceeded with and completed according to the provisions of this Act, and on the terms and conditions in the provisional order of the Commissioners specified in that behalf, and every such Act of Parliament hereafter to be passed containing such enactment as aforesaid shall be deemed a public general Act.

And

33. Meeting for appointing Valuer.

And be it Enacted, That as soon as conveniently may be after the passing of any Act of Parliament by which any Inclosure shall be directed to be proceeded with under the provisions of this Act, or (in the case of Land subject to be inclosed under this Act without the previous direction of Parliament), as soon as conveniently may be after the expiration of Thirty Days from the publication by the Commissioners of the notice of their intention to proceed with an Inclosure under this Act, the Commissioners shall call a meeting of the persons interested in the Land to be inclosed, of which *Twenty-one* Days' notice shall be given by advertisement, to be held for appointing a Valuer to divide, set out and allot such Land, or so much thereof as shall not be directed to be set out for public purposes, among the persons interested therein, and to set out, divide and improve in such manner as hereinafter mentioned, so much thereof as shall be directed to be set out for public purposes, and the Commissioners, if they shall so think fit, may appoint an Assistant Commissioner to be present and to preside at such meeting, and to take the votes of the persons present thereat; and the persons or their agents present at the meeting, or the majority in number, and the majority in respect of interest, may appoint a Valuer; and in case the majority in number and the majority in respect of interest shall not agree upon the appointment, then the Commissioners shall appoint a Valuer.

34. Instructions to Valuer.

And be it Enacted, That at the meeting for appointing a Valuer, or at some other meeting called by the Commissioners for the purpose, the persons present by themselves or their agents at such meeting, or the majority in number and in respect of interest of such persons, may resolve upon instructions to the Valuer not inconsistent with the terms and conditions of the provisional order of the Commissioners and of any Act hereafter to be passed by which the Inclosure may have been authorized for the appropriation of parts of the Land proposed to be inclosed for such public purposes as hereinafter mentioned or any of them; that is to say, for the formation of public roads and ways for widening or improving existing public roads and ways; for a supply of stone, gravel or other materials for the repairs of the roads and ways within the parish in which such Land shall be situate; for the formation of such public drains, watercourses or embankments as may appear conducive to the health and advantage of such parish or the neighbourhood; for the formation or improvement of public ponds, wells and watering-places; for a place of exercise and recreation for the inhabitants of the neighbourhood; for allotments or field-gardens for the labouring poor; for a supply of fuel for the poor or other inhabitants of such parish; for Land for any burying-ground, or enlarging any burying-ground; for the site of any church or chapel, parsonage-house, school, workhouse or garden to be attached thereto respectively, or for any other purpose of public utility or convenience, or for the general convenience or accommodation,

accommodation of the persons interested in the Land to be inclosed; and also, upon instructions to such Valuer, for the formation, alteration or improvement on the Land to be inclosed of private or occupation roads and ways, common ponds, ditches, watercourses, embankments, tunnels, bridges and fences, or any of them, or any other works for the improvement of such Land, or for the convenience of the occupiers of the respective allotments thereof; and also for the adoption and use for the purposes of the Inclosure of a copy of any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners of the Land in question, or of any other map or plan of the accuracy of which the Inclosure Commissioners shall be satisfied, or for making any new survey, map or plan, and as to all other matters and things which may be proper to be done in the matter of the Inclosure, and also for the raising and payment of all expenses incident to such Inclosure, either by sale of part of the Land proposed to be inclosed, or by such rate as hereinafter provided, as to the persons present at such meeting, or such majority as aforesaid, shall seem fit; or in case the majority in number and not less than *Four-fifths* in value of interest of the persons present at such meeting shall resolve on a sale of all the land proposed to be inclosed, except such part thereof as shall have been directed to be set out for public purposes, then it may be an instruction to the Valuer to proceed to such sale; and the majority in number and value as aforesaid may make any agreement with the Valuer for the payment of such Valuer for the duties to be performed by him under this Act; and all such instructions and such agreement (if any) shall be reduced into writing, and shall be sent by the Assistant Commissioner (if any) present at the meeting, or otherwise by the Chairman of the meeting to the Office of the Commissioners; and it shall be lawful for the Commissioners, having regard to the protection of the rights of all persons interested in the Inclosure, to allow or disallow such instructions, in whole or in part, or to make such alterations therein or additions thereto, not inconsistent with the terms and conditions of such provisional order and Act as aforesaid, and to allow or disallow such agreement, as they shall think proper; and in case no instructions shall have been so resolved upon, and sent to the Commissioners, or in case they shall disallow the instructions so resolved upon and sent, it shall be lawful for the Commissioners to frame such instructions as they shall think proper, not inconsistent with the terms and conditions of such provisional order and Act as aforesaid; and in case no such agreement shall have been sent, or the agreement sent shall have been disallowed, it shall be lawful for the Commissioners to make such order for the payment of the Valuer as they shall think proper; and a copy, under the seal of the Commissioners of all such instructions as the same shall have been allowed, altered or framed as aforesaid, shall be delivered to the Valuer, with a copy of such provisional order and Act of Parliament (if any) as aforesaid,

said, and the Valuer shall in his proceedings in such Inclosure observe and obey the directions and declarations of such provisional order, act and instructions respectively.

35. Form of Declaration by Valuer.

And be it Enacted, That no Valuer shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant Commissioner, Justice of the Peace, or Master Extraordinary in Chancery, the following Declaration; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, perform all the duties of a Valuer in the Inclosure of according to the provisions of an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled "

Which Declaration it shall be lawful for the Commissioners or any Assistant Commissioner, Justice, or Master Extraordinary in Chancery to administer; and every such Declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the Office of the Commissioners; and a certificate, under the seal of the Commissioners, that the person named in such certificate has been appointed a Valuer in the matter of an Inclosure, and has made and subscribed the Declaration required by this Act, shall be conclusive evidence of such appointment and of his having made and subscribed such Declaration.

36. Power to set out Boundaries of Parishes.

And be it Enacted, That in case it shall be represented to the Commissioners by the Valuer acting in the matter of any Inclosure, that the boundaries of any parish in which the Land proposed to be inclosed or any part thereof shall be situate, and of any parish adjoining thereto, are not then sufficiently ascertained and distinguished, it shall be lawful for the Commissioners or any Assistant Commissioner by them appointed for that purpose, after giving such notices as they or he shall think necessary for the protection of the rights of all persons interested in this behalf, to ascertain and set out the same respectively in writing under the hand and seal of such Assistant Commissioner, or under the seal of such Commissioners; and after the said boundaries shall be so ascertained and set out and fixed, the same shall and are hereby declared to be the boundaries of such parishes; and the Commissioners or Assistant Commissioner shall within *One calendar Month* after ascertaining and setting out the boundaries, publish the same by causing a description thereof in writing to be delivered to or left at the place of abode of one of the Churchwardens or Overseers of the poor of each of the parishes of which the boundary shall be so set out, and shall give notice that such boundary has been so set

Appeal on questions of Boundary.

out, and that such description has been so left as aforesaid, by advertisement: Provided always, That any person interested in the determination of the Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may within *One calendar Month* next after publication of the said boundaries, by delivering or leaving such description as aforesaid, give notice in writing of his dissatisfaction to the Commissioners, specifying the particulars in respect whereof he may be dissatisfied, and request that the matter in dispute may be submitted to the determination of a jury; and in every such case the Commissioners shall and they are hereby required to issue a warrant under their hands and seal to the sheriff of the county in which the parishes in question or one of them shall be situate, commanding such sheriff to impannel, summon and return, and such sheriff is hereby accordingly empowered and required to impannel, summon and return a jury of at least Eighteen sufficient and indifferent men qualified according to the laws of the realm to be returned for trial of issues in Her Majesty's Courts of Record at Westminster; and the persons so to be impanneled, summoned and returned are hereby required to appear before any Assistant Commissioner specially appointed by the Commissioners for that purpose at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impanneled, summoned and returned, a jury of Twelve men shall be drawn by the said Assistant Commissioner, or by some person to be by him appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, such sheriff shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all parties concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Assistant Commissioner is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matter in question, and may authorize or order the said jury, or any Six or more of them, to view the boundaries or the part thereof which is in controversy, and such jury shall upon their oaths, or, being Quakers, upon their affirmations (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Assistant Commissioner is hereby empowered and required to administer), inquire into and ascertain the said boundaries, or such part thereof as shall have been in controversy, and shall declare whether the said boundaries as described and set out and published as aforesaid

said are or are not the true boundaries of the respective parishes, and in case they shall declare that the same are not the true boundaries, then shall declare in what manner the boundaries so described and set out and published as aforesaid ought to be amended, and shall give verdict accordingly, and the Assistant Commissioner shall reduce such verdict to writing and certify the same to the Commissioners, under his hand and seal; and in case such jury shall have declared that the boundaries so described and set out and published as aforesaid ought to be amended, the Commissioners shall amend the same in accordance with such verdict, and such amended boundaries shall thenceforth be conclusive on all persons whomsoever.

37. Non-attendance of jurymen.

And be it Enacted, That if any person so summoned and returned upon any such jury as aforesaid shall not appear, or appearing shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act; or if any person so summoned to give evidence as aforesaid shall not appear on being paid or tendered a reasonable sum for his costs and expenses, or appearing shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse, to be judged of and determined by the said Assistant Commissioner, shall forfeit and pay for every such offence any sum not exceeding *Ten Pounds*; all which said penalties and forfeitures shall and may be recovered as penalties and forfeitures are recoverable under this Act.

38. Juries to be subject to the Regulations concerning Juries returned to try issues in Courts of Record at Westminster.

And be it Enacted, That every such jury and jurymen as aforesaid shall also be subject to the same regulations, pains and penalties as if such jury and jurymen had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster.

39. Costs of appeal.

And be it Enacted, That in every case in which the verdict of a jury shall be given in favour of the person who shall have requested that such ury be summoned, all the costs of summoning such jury and the expenses of witnesses shall be defrayed by the Commissioners, and shall be expenses in the Inclosure in the matter of which the question shall have arisen, and such costs and expenses shall be settled and determined by the said Assistant Commissioner as aforesaid; but if the verdict of the jury shall be given against such person, the said costs and expenses shall be defrayed by such person; and in case such costs and expenses shall not be paid to the party entitled to receive the same within *Ten* Days after the same shall have been demanded, then the same shall and may, by warrant of the Commissioners directed to any person or persons whomsoever, be levied by distress; but in case such person shall have requested such jury to be

summoned, in pursuance of a resolution of the rate-payers of any parish in vestry assembled, the costs and expenses so paid by him shall be repaid to him by the Overseers of the Poor of such parish, out of the poor's rate, and shall be allowed in account to such Overseers.

40. Security for Costs to be taken by the Commissioners.

And be it Enacted, That every person who shall be dissatisfied and shall require a jury to be summoned as aforesaid, shall, at his own costs, before the Commissioners shall be obliged to issue their warrant for the summoning of such jury, enter into a bond with two sufficient sureties to the Commissioners in a sufficient penalty to prosecute the complaint, and to bear and pay their costs and expenses of summoning and returning such jury and taking such verdict, and of the summoning and attendance of witnesses, in case the said costs and expenses shall fall upon them.

41. Power to straighten Boundaries.

And be it Enacted, That for the purpose of shortening or rendering straight any boundary fences between the Land to be inclosed and any adjoining Lands, it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in such adjoining Lands, to set out and determine the boundaries between the Land to be inclosed and such adjoining Land, or to draw and define a new line of boundary, as he shall judge proper for the purposes aforesaid; and after such boundaries shall have been so set out and determined as aforesaid, or such new line of boundary drawn and defined, the same shall be made, fenced, ditched or mounded by such person, in such manner and at such times as the Valuer shall direct, and shall for ever thereafter be deemed the boundaries and limits of such respective Lands.

42. Valuer to hold meetings.

And be it Enacted, That the Valuer acting in the matter of any Inclosure, shall from time to time hold such meetings for the examination of claims and otherwise in the matter of such inclosure as occasion shall require, and shall cause notice to be given on the church door of the parish in which the Land proposed to be inclosed, or the greater part thereof, shall be situate; and also, like notice to be given by advertisement of the time and place of the meeting in the matter of such Inclosure, and of each subsequent meeting in the like manner, *Fourteen* Days at least before such respective meeting (meetings by adjournment only excepted), and if from any cause the Valuer shall think fit to adjourn or postpone any such meeting, it shall be lawful for him to adjourn or postpone such meeting to any future day.

43. Claims to be delivered in writing.

And be it Enacted, That all persons claiming any common or other right or interest in any Land proposed to be inclosed as aforesaid, shall deliver such claims in writing to the Valuer acting in the matter of such Inclosure, at such meeting as the Valuer shall appoint for the purpose,

purpose, stating the several particulars in respect whereof such claims are made, and distinguishing the claims in respect of freehold, copyhold, customary and leasehold property from each other, and mentioning therein the places of abode of the respective claimants or their agents at which notices in respect of such claims may be delivered; and no such claim shall be received by such Valuer after the last meeting to be held for that purpose (of which notice shall be given), except for some special cause to be allowed by the Commissioners.

44. Statement of Claims to be deposited for examination.

And be it Enacted, That a statement of all claims in the matter of any Inclosure which shall have been delivered to the Valuer acting in the matter of such Inclosure as hereinbefore provided, shall be made and deposited by him at some public place within the parish in which the Land to be inclosed, or the greater part thereof, shall be situate, *Fourteen* Days at least before the time to be appointed for the examination of such claims as hereinafter provided; and the Valuer shall cause *Fourteen* Days' notice to be given of the time and place of the meeting for the examination of such claims and for the attendance of all parties concerned therein; and at such meeting the Valuer shall proceed to examine into and determine such claims, and shall and may allow or disallow the same in whole, or in part, and make such order therein as to him shall appear just; and in case any doubts or difficulties shall arise respecting such claims, or any differences shall happen between any of the claimants touching their respective claims or the relative proportions of their rights and interests, the Valuer shall determine the same, and shall make such order therein as to him shall appear just, which order shall be final, unless any party shall be dissatisfied with the determination of the Valuer, and shall give notice, as hereinafter provided, of his desire to have the claim or matter heard and determined by the Commissioners or an Assistant Commissioner, or in case the Commissioners shall think fit to revise such determination under the power hereinafter contained.

Claims to be heard and determined by Valuer, subject to appeal to Commissioners.

45. Titles not to be determined by Valuer, Commissioners or Assistant Commissioners.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to enable the Valuer or the Commissioners or any Assistant Commissioner to determine the title of any Lands or to determine any right between any parties contrary to the actual possession of any such party (except in cases of encroachment, as hereinafter mentioned), but in case the Valuer or the Commissioners or Assistant Commissioner shall be of opinion against the rights of the party in possession, they or he shall forbear to make any determination thereupon until the possession shall have been given up by such party or recovered from him in due course of law; or where the circumstances shall admit, such Valuer, or the Commissioners or Assistant Commissioner may declare what right is appendant or appurtenant to any Land or hereditament, or otherwise declare by

any sufficient description the rights of the owner for the time being of any Land or hereditament, without declaring by name who may be the actual owner of such Land or hereditament.

46. Provisions for encroachments within Twenty Years.

And be it Enacted, That all encroachments and Inclosures other than Inclosures duly authorized by the custom of any manor of which such Land shall be parcel, or otherwise according to law, which shall have been made by any person from or upon any part of the Land proposed to be inclosed, within *Twenty* Years next before the first meeting for the examination of claims in the matter of the Inclosure thereof, whether any amerciament, rent or money, payment or acknowledgment shall or shall not have been paid or made in respect of the same to or for the use of the Lord of the Soil, or any other person, shall be deemed parcel of the Land subject to be inclosed, and shall be divided, allotted and inclosed accordingly: Provided always, That in case under the circumstances of any such encroachments or Inclosures it shall appear to the Valuer just or reasonable that rights or interests in the Lands to be inclosed should be allowed to the persons in possession of such encroachments or Inclosures, it shall be lawful for the Valuer to allow and declare such rights accordingly: Provided also, That it shall be lawful for the several persons who shall be in possession of any such encroachments or Inclosures, or in the receipt of the rent thereof at the time of the determination of claims under this Act, to take down or remove all such buildings, fences and other erections as shall then be thereon, and to convert the materials thereof to their own use within *Two* calendar Months after notice in writing signed by the Valuer, given to such respective persons or posted on the church door; and in case any dispute or difference shall arise touching any such encroachments or Inclosures, or as to the extent thereof, such dispute or difference shall be determined by the Valuer.

47. School-houses &c. not to be deemed encroachments.

Provided also, and be it Enacted, That in case any such Land shall have been taken or used, at any time before such first meeting for the examination of claims, for the erection of a schoolhouse or the appurtenances thereto, or for other such purposes as in the opinion of the Valuer shall be charitable or parochial purposes, such Land so taken, or the erections made thereon, shall not be taken or deemed to be of the nature of an encroachment within the meaning of this Act.

48. Encroachments of Twenty Years standing to be deemed ancient Inclosures.

Provided always, and be it Enacted, That all Land which shall have been inclosed from any Land subject to be inclosed under this Act for more than *Twenty* Years next preceding the day of the first meeting for the examination of claims in the matter of such Inclosure shall, for the purposes of this Act, be deemed and taken to be ancient

ancient Inclosures, but not so as to carry any right of common or compensation or allotment for or in respect of right of common which might be claimed in respect of ancient Inclosures.

49. Rights in respect of Tofts to be allowed.

And be it Enacted, That all tofts, foundations or sites of ancient commonable messuages or cottages shall, upon proof being made to the satisfaction of the Valuer acting in the matter of any Inclosure, that commonable messuages or cottages formerly stood thereon, be deemed commonable messuages or cottages, and the respective proprietors thereof shall be entitled to the same compensation for the rights of common originally belonging thereto as if such messuages or cottages were still standing.

50. Rights not sustainable in law to be allowed upon proof of Sixty Years' usage.

And be it Enacted, That where any claim shall be made to any right of Common or other right which in the judgment of the Valuer or of the Commissioners or Assistant Commissioner could not be sustained in law, but proof shall be made to the satisfaction of the Valuer or of the Commissioners or Assistant Commissioner that there has been enjoyment under the right so claimed for the space of *Sixty* Years or upwards, next before the first meeting for the examination of claims in the matter of such Inclosure, it shall be lawful for the Valuer or the Commissioners or Assistant Commissioner to allow such claims in such and the same manner as if the right so claimed might have been legally sustained and established.

51. Schedule of claims allowed by valuer to be made and deposited. Claims may be reheard by Commissioners or an Assistant Commissioner.

And be it Enacted, That after the Valuer shall have heard and determined all claims which shall have been made in the matter of an Inclosure, he shall cause a schedule of such claims and of his determinations thereon to be deposited, and to remain for *Thirty* Days at the least for the inspection of all persons interested therein at some public place within the parish in which the Land to be inclosed or the greater part thereof shall be situate, and shall cause notice to be given on the church door of such parish and by advertisement of such deposit, and shall also send a copy of such schedule to the Commissioners, and shall furnish any explanations or information in relation thereto to the Commissioners as they shall require, and in case any party dissatisfied with any determination of the Valuer as aforesaid shall within Thirty Days next after notice by the Valuer of such deposit of the said Schedule cause to be delivered to the Commissioners notice in writing of such dissatisfaction and of the desire of such party to have the claim or matter so determined by the Valuer heard and determined by the Commissioners or by an Assistant Commissioner, or in case the Commissioners shall, on the representation of any persons interested in such Inclosure, or on the information given by the Valuer in relation to such schedule, be of opinion that all or any of the determinations of such Valuer shall have been made without due consideration of the

legal rights of the parties interested or shall be erroneous, then and in any such case the Commissioners shall forthwith give notice in such manner as they shall think fit, appointing some convenient place and time for holding a meeting to hear and determine the claim or matter which shall be so desired to be reheard, or all or any of the claims or matters which shall be mentioned in the said schedule as the Commissioners shall think fit; and the Commissioners or any Assistant Commissioner specially empowered for that purpose shall rehear and determine such claim or matter, and the determination of the Commissioners or such Assistant Commissioner shall be final and conclusive, and shall be binding on the Valuer acting in the matter of such Inclosure, unless any party dissatisfied therewith shall try his right by an issue at law as hereinafter provided.

52. Appeal against determination of the Commissioners.

Provided always, and be it Enacted, That if any person claiming to be interested in any Land proposed to be inclosed under this Act shall be dissatisfied with any determination of the Commissioners or Assistant Commissioner, concerning any claim or interest in or to the Land proposed to be inclosed under the powers hereinbefore contained, and shall cause notice in writing of such dissatisfaction to be delivered to the Commissioners, within *Thirty* Days next after notice of such determination shall have been given to the several parties or persons specially interested, if any such there be, it shall be lawful for such person so dissatisfied and giving such notice as aforesaid to bring an action upon a feigned issue against the person in whose favour such determination shall have been made, or against the Commissioners, and to proceed to a trial at law at the then next Assizes, or at the Assizes immediately following such next Assizes, to be holden for the county wherein the Land relating to which such dispute shall arise shall be situate; and the defendant in such action shall, upon being served with the usual process therein, appear thereto, and accept One or more issue or issues whereby such claim, and the right and interest thereby insisted upon, may be tried and determined; such issue to be settled by the proper officer of the Court in which the said action shall be commenced in case the parties shall differ about the same; and the verdict given upon the trial of such action shall be binding and conclusive upon all parties thereto, unless the Court wherein such action shall be brought shall set aside such verdict and order a new trial to be had; and after such verdict shall be given and final judgment obtained thereon, the Commissioners shall act in conformity thereto, and allow or disallow the claim thereby determined according to the event of such trial; and the costs attending any such action shall abide the event of the trial.

53. Determination of Commissioners not

Provided always, and be it Enacted, That if no such notice of dissatisfaction shall be given, or if no such action at law shall be commenced

menced a aforesaid, or if any such action shall be commenced and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, unless the Court for sufficient cause put off the trial, then the determination of the said Commissioners or Assistant Commissioner shall be final and conclusive.

appealed against conclusive.

54. Actions not to abate.

And be it Enacted, That if any person, plaintiff or defendant, in any action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such event had happened, the heir or devisee or other person entitled to the interest of the deceased party in the matter in question being served with process in the action; and if any person in whose favour such determination as aforesaid shall have been made, and against whom any such action might have been brought if living shall die before any action brought, it shall be lawful for the person who might have brought such action to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the Commissioners with process for commencing such action in the same manner as the deceased person might have been served therewith if living; and it shall thereupon be incumbent on the Commissioners to serve with such process the heir or devisee or personal representative of the deceased person, or other the person who shall claim the benefit of such determination as aforesaid; and on such process being served, such heir or devisee, or personal representative, or other person, shall appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been living, and the rights, interests and claims of all parties shall be equally bound by the event of any action so brought or continued as aforesaid, as if the death of any of the persons interested therein had not occurred.

55. Commissioners may award Costs.

And be it Enacted, That in case the Commissioners or any Assistant Commissioner appointed to hear and determine any claim or matter in pursuance of this Act, shall see cause to award any costs, it shall be lawful for the Commissioners or Assistant Commissioner, upon application, to assess and award such costs as they or he shall think reasonable to be paid to the person in whose favour any determination of the Commissioners or Assistant Commissioner shall have been made, and by the person whose claim or objection shall have been disallowed; and in case any person liable to pay such costs shall neglect or refuse to pay the same upon demand, the Commissioners or Assistant Commissioner shall by warrant directed to any person or persons whomsoever, cause such costs to be levied by distress; and if there shall be no goods and chattels whereon to levy such costs, it shall be lawful for the person in whose favour such costs shall be awarded, to recover the same by action of debt, or on the case; in which action it shall be

sufficient for the plaintiff to declare that the defendant is indebted to him in the sum specified in the order of adjudication made by the Commissioners or Assistant Commissioner, and in consequence of such order, without setting forth any other proceedings under this Act.

56. Differences may be submitted to arbitration.

Provided always, and be it Enacted, That in case any person hereinbefore authorized to bring an action upon a feigned issue, and the person against whom such action might be brought shall be desirous of submitting the matter in dispute or difference to the arbitration of any arbitrator, or of any arbitrators and umpire, it shall be lawful for such persons, with the approbation of the Commissioners, to submit such matter in dispute accordingly, and such submission shall be irrevocable, and the decision thereupon shall be binding on both parties and be obeyed accordingly, and the costs of such arbitration shall abide the event; and the Commissioners may require each of the persons in difference upon any such submission to arbitration to give such security for the payment of the costs of such arbitration as the Commissioners shall think fit.

57. Power to Valuer to make Watercourses, &c.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure to set out and make such common ponds, ditches, watercourses, embankments, tunnels and bridges of such extent and form, and in such situations as he shall deem necessary, and as shall not be inconsistent with the terms and conditions, and instructions hereinbefore mentioned, in the Land to be inclosed, and also to enlarge, cleanse or alter the course of and improve any of the existing ditches or watercourses, embankments, tunnels or bridges, as well in and over the same Land, as also in any ancient Inclosures or other Lands in the parish or respective parishes in which the Land to be inclosed may be situate, as the Valuer shall deem necessary, making such satisfaction to the proprietors of such ancient Inclosures or Lands for the damage done thereby as the Valuer shall think just; and the expense of making and enlarging, altering and cleansing such ponds, ditches, watercourses, embankments, tunnels and bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised and paid in the same manner as the other expenses of the Inclosure; but all such ponds, ditches, watercourses, embankments, tunnels and bridges shall at all times afterwards be repaired, cleansed and maintained by such persons, and in such manner as the Valuer shall direct, provided that no watercourse be diverted or turned without the consent, in writing, of the person interested in the Land from which the same may be diverted, and of the person interested in the Lands into which the same may be turned, or to the prejudice of any person interested in such watercourse, except with his consent in writing.

And

58. Power to alter Roads and Ways.

And be it Enacted, That in the first place the Valuer acting in the matter of any Inclosure shall and may, before he shall proceed to make any of the divisions and allotments of the Land to be inclosed, in pursuance of or in any manner not inconsistent with the instructions given to such Valuer as aforesaid, set out public roads and ways, and widen public roads and ways in or over the land to be inclosed, and stop up, divert or alter any of the roads or ways passing through the Land to be inclosed, or through any old Inclosures in the parish or respective parishes in which the Land to be inclosed shall be situate; and the soil of such of the roads and ways so to be discontinued and stopped up as pass through the Lands to be inclosed, shall be deemed part of the Lands to be inclosed: Provided always, That nothing herein contained shall authorize the altering or diverting any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a public meeting called for that purpose, be first obtained: Provided also, That before any public road or way shall be discontinued, diverted, stopped up or altered by the Valuer acting in the matter of any Inclosure, the Valuer shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Valuer shall also cause the same notice to be given by advertisement for *Four* successive Weeks, and also on the church-door on the *Four* Sundays of the said *Four* successive Weeks; and after the said several notices shall have been so given, such road or way shall from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

59. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within *Four* Months after the first Sunday on which such notice shall have been given on the church-door of the intention that such road or way should be discontinued, stopped up, diverted or altered, as the case may be, to make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions for the county, riding, division or other jurisdiction in which such road or way, or the greater part thereof, shall be situate, upon giving to the Valuer *Ten* Days' notice in writing of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such appeal, unless such notice and statement shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

60. Trial of Appeal.

And be it Enacted, That in case of such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be discontinued, stopped up, diverted or altered,

altered, or whether the party appealing would be thereby injured or aggrieved, impannel a jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if after hearing the evidence produced before them the said jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the Appellant to the Valuer, and the same shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said jury shall return a verdict that such road or way is not unnecessary, and that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the party appealing would be injured or aggrieved thereby, the said Court shall allow such appeal, and such public road or way shall not be discontinued, stopped up, diverted or altered; or in case the same shall have been discontinued, stopped up, diverted or altered, the said Court shall make an order restoring the same to its originnl state, and shall award to the Appellant the costs of prosecuting such appeal, and such costs shall be paid by the said Valuer out of the monies to be raised for the expenses of the Inclosure.

61. Roads to be fenced.

And be it Enacted, That such public roads and ways so to be set out as aforesaid, shall be well and sufficiently fenced on both sides by such of the persons interested in the Land to be inclosed, and within such time as the Valuer acting in the matter of such Inclosure shall direct; and it shall not be lawful for any person to set up or erect any gate across any such road or way, or to plant any trees in or near to the hedges on the sides thereof, at a less distance from each other than *Fifty* Yards, and the Valuer shall form and complete such parts of the said public roads and ways as shall be newly made.

62. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, and the stopping up, discontinuing, diverting, widening and altering of such roads and ways, and the money compensation in respect thereof upon any Inclosure, shall be paid in such manner as the expenses of such Inclosure shall be directed to be paid.

63. Roads to be repaired by the Parish after certificate by Valuer.

And be it Enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the county, riding, division or jurisdiction in which the Lands to be inclosed shall be situate, shall certify any of the public carriage roads to be set out in pursuance of this Act on any Inclosure to be sufficiently formed and completed, such roads shall thenceforth be kept in repair by such persons and in such

such manner as the public roads within the said parish are or ought by law to be kept in repair; and every such certificate shall, at the Quarter Sessions of the Peace to be holden for the said county, riding, division or jurisdiction, next after the date thereof, be filed of record by the Clerk of the Peace.

64. Private Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may set out such private or occupation-roads and ways through the Lands to be inclosed as he shall think requisite, for the use of the persons interested in such Lands, or any of them; and any expenses which the Valuer may incur relative to the setting out or formation or completion of such private roads and ways, or any of them, shall, unless the Valuer shall otherwise direct, be paid in the same manner as the other expenses of the Inclosure; and such expenses of the formation and completion of such private roads and ways as the Valuer shall direct, shall be borne by, and after the formation and completion of such private roads and ways, the same shall be maintained and kept in repair by and at the expense of the owners and proprietors for the time being of the Land inclosed, or such of them, and in such shares and proportions, and in such manner, as the Valuer shall direct; and after such private roads and ways shall have been set out and made, the grass and herbage arising thereon shall for ever belong to and be for the use of such persons interested in the Lands to be inclosed as the Valuer shall direct; and in the absence of such direction, shall belong to the proprietors of the Land to be inclosed which shall next adjoin the said roads and ways on either side thereof as far as the crown of the road; and all private or occupation-roads or ways over, through and upon the Lands to be inclosed which shall not be set out as aforesaid, shall be for ever stopped up and extinguished.

65. Rights of Common may be suspended.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure at such time as he shall think proper, and before the making of the award (but with the approbation of the Commissioners under their seal), by notice on the church door, to order all or any part of the rights of sheep-walk, common or other rights in or over the Land to be inclosed, or any part thereof, to be extinguished from such time, or the exercise thereof to be suspended during such time as shall be expressed in such notice, and from the time mentioned in such notice such rights shall be extinguished or suspended accordingly; and if during the suspension or after the extinguishment of any such rights of sheep-walk, common or other rights as aforesaid, any person shall permit his horses, cattle, sheep or swine to go or depasture upon any of the Lands over which such rights shall be suspended or extinguished, it shall be lawful for the Valuer acting in

the matter of the Inclosure, or any other person by his order (testified in writing under his hand), or any of the persons interested in such Lands or in the Inclosure thereof, to distrain such horses, cattle, sheep or swine being upon such Lands contrary to such order, and to impound the same until the person so offending shall pay to the person so distraining such sum of money as the Valuer shall, by writing under his hand, have previously ordered, not exceeding *Ten Shillings* for each horse or head of cattle, and *Five Shillings* for each sheep or swine so distrained; and in case the same shall not be paid within *Seven* Days after the same shall have been impounded, the Valuer is hereby authorized, upon proof of such offence having been committed, and of non-payment of the penalty hereby imposed, to cause the horses, cattle, sheep or swine so distrained or impounded, or such of them as he shall think necessary, or any other goods or chattels of the person so offending, to be sold for raising and paying the penalty aforesaid, together with the costs and charges attending such distress, rendering the surplus (if any) to the owner.

66. Course of Husbandry may be directed.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, at such time as he shall think fit, by notice on the church-door, to direct the course of husbandry and the stint or rule of stocking that shall be observed upon the Land to be inclosed until the time when the Inclosure thereof shall be completed, as well with respect to the laying down, ploughing, sowing, fallowing, manuring and tilling thereof, as to the stocking and feeding of the commonable Lands, and fallows or stubbles upon the same; and to direct such recompense to be made as he shall think right to any person injured by such directions, all which directions shall be binding upon all parties interested, their farmers and tenants; and the Valuer shall impose such pecuniary penalties on every person not conforming to such directions as he shall think necessary, not exceeding the sum of *Five Pounds* per acre in the case of cross-cropping, or withholding from the Land its due proportion of manure, or *Ten Pounds* in any other case, for any one offence; and shall also determine in all cases where the tenant is entitled by agreement or custom to the manure arising from the Lands in his occupation, by whom and in what sum of money such tenant shall be compensated for any such manure left or given up by him; and such penalties and other sums of money shall be recovered in the same manner as by this Act directed for the recovery of penalties.

67. Compensation for growing Crops.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall, by writing under his hand, order what recompense in money shall be made to the owner of any crops growing, according to his agreement or lease, or according to the customary mode of cultivation

cultivation within the parish in which the Land to be inclosed shall be situate, upon such Land at the time of the division, allotment and inclosure for the said crops, by the person to whom the Land on which such crops are growing shall be allotted; and also what recompense in money shall be paid, and by whom, to any tenant or occupier of Land, as well for the ploughing, tilling, cultivating, manuring or folding any Land to be inclosed for the benefit accruing thereby to the person to whom such Land shall be allotted, or for any loss or disadvantage which any tenant or occupier may sustain by the loss of his following or way-going crops upon the Land to be inclosed; and if in any of the said cases the money to be paid for such recompense be not paid at the time and in the manner ordered by the Valuer, then the same may be recovered by the person entitled thereto from the person liable to pay the same, in the same manner as penalties and forfeitures are recoverable under this Act.

68. Allotment for repair of Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall allot to the Surveyor of the Highways for the time being of the parish in which the Land proposed to be inclosed, or any part thereof, shall be situate, and to his successors for ever, such part of the Land proposed to be inclosed as by the instructions given to such Valuer shall have been directed to be appropriated for supplying stone, gravel or other materials for the repairs of roads and ways as aforesaid; or in case no such instructions shall have been given in this behalf, such part as the Valuer shall think fit; and such allotments shall be inclosed and fenced as the Valuer shall direct, and shall, from the confirmation of the award, be vested in the Surveyor of the Highways within the said parish for the time being, in trust for the purposes aforesaid; and the grass and herbage of such allotments shall belong to such persons as by the Valuer shall be directed; and if he shall make no such direction, then such Surveyor shall from time to time let the herbage for the most money that can be obtained for the same, and shall apply the rents and profits towards the repairs of the public roads or highways within the said parish; and the said Surveyor shall account for such rents and profits in the same manner as he is by law accountable for other monies that shall come to his hands in the capacity of Surveyor of the Highways, and shall be subject to the like penalties for the neglect thereof.

69. Allotments for public purposes.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of the provisional order of the Commissioners or any Act hereafter to be passed, or the instructions given to such Valuer as aforesaid, set out and allot such part of

the Lands to be inclosed as by such provisional order or Act, or instructions respectively, shall have been directed to be appropriated as a place of exercise and recreation for the inhabitants of the said parish and neighbourhood; and such allotment shall, unless the same shall be otherwise awarded under the provision hereinafter contained, be made and awarded to the Churchwardens and Overseers for the time being of the parish in which the same shall be situated, and shall be held by the Churchwardens and Overseers for the time being of the said parish for the purposes aforesaid, and shall be in the first instance fenced, and where occasion shall require, drained and levelled by the Valuer, the expense in such case to be considered part of the expenses of the Inclosure; or shall be fenced by any person to whom adjoining Land shall be allotted as the Valuer may direct; and the fences of such allotment shall for ever afterwards be repaired and maintained, and the surface thereof kept drained and level by such Churchwardens and Overseers, or by the Churchwardens and Overseers of the several parishes interested therein, in such proportions and manner as shall be directed by the Valuer out of the rents to be received for the herbage of the said allotment, or out of the poor-rate of the said parish or respective parishes or otherwise; and the grass and herbage growing upon such allotment may be from time to time let by the Churchwardens and Overseers, in whom the same shall be vested, and the rents which shall be received by them for the same shall be by them from time to time applied, in the first place, in maintaining and repairing the fences of the said allotment, and keeping the surface thereof drained and level as aforesaid, and subject thereto in aid of the rates for the repair of the public highways in the said parish or respective parishes; and the Valuer shall in like manner set out and allot such part of the Land to be inclosed, as by such provisional order or Act, or instructions as aforesaid, shall have been directed to be appropriated as an allotment for the labouring poor, unto the Churchwardens and Overseers of the poor of the parish in which such allotment shall be situate, subject nevertheless to a rent charge to be payable thereout to any person or persons who may be entitled to allotments under such Inclosure, as hereinafter provided; and the said Valuer shall in like manner, in pursuance of the directions of or in any manner not inconsistent with the directions of such provisional order or Act, or instructions as aforesaid, set out and allot for the other public purposes mentioned in such provisional order or Act, or instructions as aforesaid, such parts of the Land to be inclosed as shall have been thereby respectively directed to be set apart for such purposes, and such allotments shall be made to such persons respectively, with such regulations and provisions as to the fencing, maintenance, use and enjoyment thereof respectively as the Valuer, with the approbation of the Commissioners, shall direct; and in every

every case in which the Valuer, with such approbation of the Commissioners, shall not think it necessary or proper to direct the same to be otherwise made, such allotments shall be made to the Churchwardens and Overseers of the poor for the time being of the parish in which such allotments shall be situate; and all allotments which shall be made to the Churchwardens and Overseers under this Act, shall be held by the Churchwardens and Overseers of the poor for the time being in the same manner, and with the same legal powers and incidents, as if the same allotments were Lands belonging to the parish, but in trust, nevertheless, for the purposes for which the same shall be allotted, and subject as to the said allotment for the labouring poor to the provisions in relation thereto hereinafter contained, and as to all other such allotments, subject to such directions for the maintenance, fencing, management and use thereof as the Valuer, with the approbation of the Commissioners, may think fit.

70. Provision for awarding allotments for exercise, &c., to individuals, subject to the obligation of permitting it to be used.

Provided always, and be it Enacted, That it shall be lawful for the Valuer, with the approbation of the Commissioners, to set out and allot such Land as shall be appropriated as a place of exercise and recreation as aforesaid, to any person entitled to an allotment under the Inclosure, and who shall consent to receive the same in full, or in part of his allotment, and the person to whom the Land so to be appropriated shall be allotted, and all future owners thereof, shall, unless it shall be otherwise directed by the award, be subject to the obligation of maintaining the fences of such Land, and of preserving the surface thereof in good condition, and of permitting such Land to be at all times used for exercise and recreation by the inhabitants of the parish and neighbourhood, and, subject to such obligations, the herbage of such Land shall belong to the person to whom such Land shall be so allotted.

71. Allotments for the labouring poor may be made subject to a Corn rent-charge, to vary and be recoverable as a Tithe Rent-charge.

And be it Enacted, That every allotment which shall be made and awarded for the labouring poor may be so awarded, subject to and chargeable with a clear rent-charge or clear rent-charges, not exceeding in the whole the net annual value of the allotment in its actual condition at the time of making the same; and every such rent-charge shall be deemed at the time of the confirmation of the award to be of the value of such number of imperial bushels, and decimal parts of an imperial bushel of wheat, barley and oats, as the same would have purchased at the average prices during the Seven Years ending on the Thursday next before Christmas-day One thousand eight hundred and Thirty-five, as the same were ascertained by the advertisement inserted in the London Gazette, under the provisions of the Act of the seventh year of King William the Fourth, intituled, "An Act for the Commutation of Tithes in England and Wales," in case One-third

part of such rent-charge had been invested in the purchase of wheat, One-third part thereof in the purchase of barley, and the remaining Third part thereof in the purchase of oats, and the respective quantities of wheat, barley and oats, so ascertained, shall be stated in the award; and every such rent-charge shall be paid by equal half-yearly payments on the First day of July and the First day of January, the first of such half-yearly payments to be made on the first of such half-yearly days after the expiration of Three Years from the date of the confirmation of such award; and such sum of money shall be payable in respect of such yearly rent-charge as, according to the prices ascertained by the then next preceding advertisement for the purposes of the said Act of the seventh year of King WILLIAM the Fourth, would have been payable in respect of a rent-charge of like amount charged on Lands under the provisions of such Act; and the sum of money thenceforth payable in respect of such rent-charge charged under the provisions of this Act, shall vary so as always to consist of the price of such number of bushels and decimal parts of a bushel of wheat, barley and oats respectively, according to the next preceding advertisement for the time being, in like manner as if the same had been a rent payable under the provisions of the said Act of the seventh year of King WILLIAM the Fourth, and the persons entitled to any rent-charge charged under the provisions of this Act, shall have the same powers and remedies for enforcing payment thereof in all respects as are by the said Act of the seventh year of King WILLIAM the Fourth, or by any Act for amending the same, given to the persons entitled to rent-charges charged under the said Act of the seventh year of King WILLIAM the Fourth, for recovering and enforcing payment of such last-mentioned rent-charges, and nothing herein or in such award contained shall render any person personally liable to the payment of any rent-charges to be charged under the provisions of this Act.

72. Allotment to Lord.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the payment of the expenses by sale of Land in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall allot and award unto the Lord of the Manor so much and such part of the Land proposed to be inclosed as shall in the judgment of the Valuer be equal (quantity and value considered) to such a part of the residue of such Land as shall be proportioned to his right or interest therein, according to the directions of the provisional order of the Commissioners, in lieu of his right and interest in the soil of the said Land, exclusive of any other allotments which may be made to such Lord in lieu of or in satisfaction for any other rights or interests in such Land to which he may be entitled, and which shall not have been included in the estimate in such provisional

visional order of his right and interest, and in case it shall have been declared by such provisional order that the right or interest of the Lord has been estimated exclusively of his right or interest in the mines and minerals under the Land to be inclosed, then the Valuer shall and may, on the request in writing of the Lord, reserve or award to the Lord such rights and easements for searching for, working and carrying away such mines and minerals, subject to such provisions for compensation for damage to be done to the surface in the exercise of such rights and easements, as by the Valuer, with the approbation of the Commissioners, shall be thought reasonable.

73. Allotment of residue.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the expenses of the Inclosure by sale of Lands in case the expenses shall be so directed to be paid, the Valuer acting in the matter of the Inclosure shall divide, allot and award all the remainder of the Land to be inclosed unto and amongst the several persons who shall be interested therein, in such shares and proportions as he shall adjudge and determine to be proportionate to the value of their respective rights and interests which shall have been claimed and allowed under the provisions hereinbefore contained.

74. The Rent-charges payable out of Allotments for the labouring poor to be allotted to persons entitled under the Inclosure.

And be it Enacted, That where any allotments shall be made for the labouring poor under the provisions hereinbefore contained, subject to any rent-charge or rent-charges, such rent-charge or rent-charges may be allotted to any person or persons who may elect to receive the same, in full or in part of his or their allotment or allotments, and in case no person shall so elect to receive the same, then to such persons and in such shares as the Valuer may think convenient for the purpose of equalizing allotments or otherwise; and it shall be lawful for the Valuer, for the purposes of allotment under this clause, to estimate the value in fee-simple of every such rent-charge to be Four-fifths only of the value of an allotment of land equal in net annual value to such rent-charge.

75. Separate Allotments to be made in respect of separate Titles.

And be it Enacted, That when any person to whom any allotment shall be made, or Land assigned in exchange by virtue of this Act, shall hold such Land, or the Land in respect of which such allotment or exchange is made under different titles or for different estates, and as to copyhold or customary Land by separate quit-rents, the Valuer in the matter of the Inclosure shall ascertain and distinguish the Land held for each of such estates and under each of such titles respectively, and shall accordingly set out distinct and several allotments for such respective Lands, and distinguish the several estates holden by several and distinct quit-rents.

76. Several Allotments may by consent be laid together.

And be it Enacted, That in case any number of the persons interested in the Land to be inclosed shall desire to have their allotments thrown together, and distinguished by metes and bounds, but not fenced from each other, and of such their desire shall give notice in writing to the Valuer acting in the Inclosure, such Valuer shall set out the several allotments of such persons so giving notice as aforesaid, by metes and bounds, but in one parcel of Land, and without requiring them to make any subdivision fences or other fences, save such ring or outer fences as may be necessary, or as the Valuer may direct to be made for dividing the said parcel of Land from the residue of the Land so to be inclosed.

77. Cultivated Land and Buildings to be allotted to the Proprietor.

Provided always, and be it Enacted, That it shall not be lawful for the said Valuer to allot to any other person than the proprietor thereof any Land which may be cultivated as orchard or garden, or on which any building may have been erected, or which may have been inclosed by virtue of any agreement between the proprietor thereof and the persons having right of Common over the same, without the consent in writing of such proprietor.

78. Regard to be had to the situation of Homesteads.

And be it Enacted, That the Valuer in making the several allotments hereby directed, shall have due regard as well to the situation of the respective houses or homesteads of the persons interested in the Land to be inclosed as to the quantity and quality of the Land to be allotted to them respectively, so far as may be consistent with the general convenience of such persons; and that such Valuer in making the said Allotments shall have particular regard to the convenience of the persons interested in respect of the smallest estates in the Land subject to be inclosed under this Act.

79. Allotments to be fenced.

And be it Enacted, That the several allotments to be made, except the allotments to the Surveyor and Churchwardens and Overseers respectively, and the other allotments for public purposes, shall be inclosed, ditched and fenced at the expense of the respective persons to whom the same shall be allotted, in such manner and within such times as the Valuer shall direct; and the fences so to be made shall for ever afterwards be repaired and maintained by such persons as the Valuer shall direct; and if from the situation, or from any other circumstance, it shall happen that any person to whom any allotment shall be made, shall not have a fair proportion of the boundary ditches or fences assigned to him to make, it shall be lawful for the Valuer, acting in the matter of any Inclosure, to ascertain and appoint what sum of money shall be contributed by such person towards making the boundary, ditches and fences of the allotments

of

of such other persons as shall have assigned to them to make too great a proportion thereof; and such money shall be paid to such persons and in such manner as by the Valuer shall be directed, and the same may be recovered in the same manner as penalties or forfeitures are recoverable under this Act.

80. Allotments may be made to purchasers.

And be it Enacted, That if at any time before an allotment shall have been made by the Valuer, any person shall sell his right or interest in the Land to be inclosed or any part thereof to any person, the Valuer shall, upon such sale being certified to him in writing by the vendor, make an allotment of Land to the purchaser or to his heirs or assigns in respect of the right or interest so sold; and every such purchaser or his heirs or assigns shall from the confirmation of the award hold and enjoy the Land so to be allotted to him in such manner as the vendor might or ought to have done, in case such sale had not been made; and it shall be lawful for any person who shall be entitled to any allotment under this Act, to devise, convey, surrender or otherwise assure the same allotment or all or any part of his interest therein at any time before the confirmation of the award; and every such devise, conveyance, surrender and assurance shall be of the same validity as if the same had been made after the confirmation of the said award; and it shall be lawful for any person entitled to any allotment to sell, dispose of or convey the estate in right of which he may be entitled to such allotment, separate from and retaining to himself such allotment, or the right thereto; and the Valuer is hereby required to award such allotment accordingly.

81. Allotments to be made to representatives of parties dying.

And be it Enacted, That if any person interested in any Inclosure under this Act shall die before the same shall have been completed, the powers and authorities hereby vested in the Commissioners, Assistant Commissioner and Valuer shall not be thereby determined or suspended, but they shall proceed in the execution of such powers and authorities in such manner as they might have done in case such person had not died; and the allotment which might have been made to the person so dying shall be made to such person as by the law shall become entitled to the same, and shall be accepted and fenced by such party according to the directions contained in the award, and he shall be liable to the charges and expenses and other conditions of the Inclosure.

82. Old Inclosures may be allotted with consent.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in any old inclosed Lands, or Lands holden in severalty, or otherwise not subject to be inclosed under the general provisions hereinbefore contained,

tained, to order and direct such old inclosed Lands or other Lands as last aforesaid, to be considered as allottable and parcel of the Land to be inclosed; and such allowance shall be made to the person interested in such Lands on account of the situation or other beneficial circumstances thereof as the Valuer shall adjudge to be just and reasonable; and he shall allot and award unto the person so interested in such old inclosed Lands, or other Lands as aforesaid, so much and such part of the Land to be inclosed as he shall think reasonable and just.

83. Allotments to freemen and other classes of persons entitled to common rights.

And be it Enacted, That where the freemen or burgesses of any city or borough, or the householders or inhabitant householders of any town or place, or any class or description of such freemen, burgesses, householders or inhabitant householders, or any other persons as a class, shall be entitled to rights of common or other rights over the Lands to be inclosed, it shall be lawful for the Valuer to award in respect of such rights an aggregate allotment to any *Two* or more trustees, who shall be nominated by the majority at such meeting as hereinafter mentioned, or in case *Two* or more trustees shall not be nominated at such meeting, then to such trustees as the Commissioners shall approve, with provisions for the appointment of new Trustees from time to time, or to the Churchwardens and Overseers of the Poor of the parish in which the allotment shall be situate, in trust for the parties entitled to the right in respect of which the allotment shall be made; and it shall be also lawful for the Valuer, having regard to such instructions, if any, as may have been resolved on at such meeting as hereafter mentioned, or to such instructions as shall be given by the Commissioners in this behalf, to direct in what manner and under what regulations such allotment shall be occupied or enjoyed by the persons from time to time entitled to the benefit thereof, and (in case the Valuer, having regard to such instructions, shall think fit) to give directions and powers for the letting of such allotment from year to year, or for any term of years, subject to such provisions and restrictions as the said Valuer, with the approbation of the Commissioners, shall think fit, and for the receipt of the money to arise from such letting, and for the application of such money for the benefit of the persons entitled to the benefit of the allotment, and to give all such directions and provisions for the fencing, draining and management of such allotment, as the Valuer may think expedient.

84. Power to sell such allotment.

Provided also, and be it Enacted, That it shall be lawful for the Valuer, with the approbation of the Commissioners, and of such meeting as hereinafter mentioned, to sell and dispose of the whole or any part of any allotment to which any such class of persons as aforesaid shall be entitled under this Act, and the allotment or any part

part thereof so sold shall be conveyed by the Commissioners as the purchaser shall direct, and the Commissioners shall sign a receipt for the purchase-money, which shall be a sufficient discharge for the same; and the purchase-money arising from the sale, or the surplus thereof, after payment thereout of any expenses to which the same shall be liable, shall, with the approbation of the Commissioners, be paid to any trustee or trustees upon trust for the investment thereof, with provisions for the appointment of new trustees from time to time, and for the application of the interest and annual produce of such investment to such purposes, for the benefit of the persons who would have been entitled to such allotment, or the part thereof so sold, in case the same had not been sold as the Commissioners shall approve, and by the final award in the matter of such Inclosure direct.

85. Meeting of persons entitled for giving instructions to Valuer.

Provided also, and be it Enacted, That when the claim of any class of persons entitled as aforesaid, shall be allowed, the Valuer shall certify such allowance to the Commissioners, and the Commissioners shall call a meeting of such persons by advertisement, for the purpose of appointing trustees of the allotment to be made for their benefit, and for giving instructions to the Valuer concerning the enjoyment, occupation and management of such allotment, or for letting the same, and for the application of the money to arise from such letting, or in case such meeting shall think fit that such allotment, or any part thereof, shall be sold, for directing the sale thereof, and the investment of the money arising from such sale, and the application of the income thereof; and the Commissioners, having reference to the total number of such class (so far as the Valuer or the Commissioners may have ascertained the same), shall by such notice declare the number of persons who should be present at such meeting to give validity to the proceedings, and the decision of the majority of such meeting shall bind the minority and all absent parties: Provided always, That no meeting shall be effectual for the purpose aforesaid unless such a number of the said persons shall attend the same as shall be mentioned in that behalf in the advertisement calling such meeting; and if no effectual meeting shall be held for the purpose aforesaid, or being held, no instructions shall be resolved on by the majority present at such meeting, or in case the Commissioners shall deem such instructions unjust or unreasonable, the Commissioners may give such instructions to the Valuer in respect of the matters aforesaid as they shall think fit, provided that no sale of any such allotment, or any part thereof, shall be made, except in pursuance of a resolution of a meeting called as aforesaid; but a recital in the conveyance by the Commissioners upon any sale, that such sale was duly authorized, shall for all purposes of title be evidence that such sale was made in pursuance of the resolution of a meeting duly called as aforesaid.

86. Partitions may be made

And be it Enacted, That where any persons interested in Land to be inclosed under this Act shall be so interested in undivided shares or as joint tenants, coparceners or tenants in common, it shall be lawful for the Valuer, upon the request in writing of any of the persons so interested in undivided shares, or as joint tenants, coparceners or tenants in common, to make partition of the Lands or allotments coming to such persons so interested, and to allot the same to such persons in severalty; and immediately after the said allotments shall be so made and declared, the same shall be holden and enjoyed by the persons to whom the same shall be allotted in severalty, subject to the same uses as such undivided share would have been subject to in case such partition had not been made; and every such partition shall be specified in the award, and shall be valid and effectual to all purposes.

87. Costs of Partition.

And be it Enacted, That all costs and expenses attending any partition to be made by virtue of this Act, shall be borne and defrayed by the several proprietors of, or persons interested in, the estates which shall be so parted, in such manner and proportions as the Valuer shall order; and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

88. Exchanges.

And be it Enacted, That it shall be lawful for the Valuer to allot and award any Land to be inclosed in exchange for any other Land within the parish in which the Land to be inclosed shall be situate, or any adjoining parish; and it shall be lawful for the Valuer in exercise of this present power, to allot all or any part of the Land which would have been subject to be allotted under this Act for the purposes of exercise and recreation, or for the labouring poor, or for any other public purposes, to any person in exchange for other Land in the parish, or in any adjoining parish, which shall appear to the Valuer more suitable or convenient for the purposes of exercise and recreation, or for the labouring poor or for such other public purposes as aforesaid, and to allot such other Land for such purposes accordingly; and all Lands taken and allotted as aforesaid under this provision, although not situate in the parish in which the Land given in exchange for the same shall be situate, shall for the purposes of the provisions herein contained be deemed to be within such parish, and be managed and dealt with accordingly; provided that all exchanges under which Land shall be taken and allotted for public purposes as aforesaid shall be made with the consent of the person interested in the Land so taken, and that all other exchanges be made with the consent in writing of the persons interested in the Lands so exchanged, and every such exchange so to be made shall be valid and effectual to all purposes, and shall be specified and declared in the

the award: Provided also, That no exchange shall be made of any Land held in right of any church or chapel or other ecclesiastical benefice without the consent, testified in writing, of the Bishop of the diocese in which such Lands shall be situate: Provided also, That all costs and expenses attending the making and completing of any such exchanges, except exchanges of Land taken for public purposes, shall be borne by the several parties making such exchanges, in such manner and in such proportions as the Valuer shall direct, and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures, and the expenses of the exchanges of Land taken for public purposes shall be considered part of the expenses of the Inclosure.

89. Wills and Settlements not to be affected.

And be it Enacted, That nothing in this Act contained shall extend to revoke, make void or alter any will, settlement, uses or trusts, or to prejudice any person having any right or claim of dower, jointure, annuity, portion, debt, charge, rent or incumbrance upon or affecting any of the Land to be inclosed, or which shall be exchanged or given in partition in pursuance of this Act; but the Land allotted and the Land given in exchange or partition, shall immediately after such allotment, exchange or partition, be and enure, and the several persons to whom the same shall be allotted or given in exchange or partition as aforesaid, shall thenceforth stand and be seised and possessed thereof respectively to and for such and the same estates, uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances as the several Lands, rights or undivided shares thereof in respect whereof such allotments, exchanges and partitions shall have been made would have stood limited to and for, or been subject to, in case the same had not been allotted, exchanged or given in partition as aforesaid, and as if this Act had not been made, save and except such leases and tenancies at rack-rents as shall become void by virtue of this Act, and any joint tenantcy which may have been severed by partition as aforesaid, and such rights of common and other rights as are intended to be extinguished by the Inclosure, and subject nevertheless to all such mortgages and sales as shall be made by authority of this Act.

90. Tenure of the Allotments.

And be it Enacted, That all such Land as shall be taken in exchange or on partition or be allotted by virtue of this Act, shall be held by the person to whom it shall be given in exchange or on partition or allotted, under the same tenures, rents, customs and services as the Land in respect of which such Land shall have been given in exchange or on partition or allotted, would have been held in case no such exchange, partition or inclosure had been made; and the Land taken in exchange or on partition or allotted in respect of freehold shall be deemed freehold, and the Land taken in exchange or on partition or

allotted in respect of copyhold or customary Land, shall be deemed copy hold or customary Land, and shall be held of the Lord of the same Manor under the same rent and by the same customs and services as the copyhold or customary Land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary Land in respect whereof such exchanges, partitions or allotments shall be made, and as to copyhold or customary allotments without any new admittance in respect of the lands taken or allotted respectively; and the Land given in exchange or on partition or allotted in respect of leasehold Land, shall in like manner be deemed leasehold, and shall be held under the same rents and covenants as the Land in respect of which it may have been allotted was held; and the remainder or reversion thereof shall be vested in the same lessor respectively as the remainder or reversion of such other Land was vested before the exchange, partition or allotment, except where otherwise particularly directed by this Act.

91. Leases at Rack-rent may be voided.

And be it Enacted, That immediately after the allotments herein directed to be made on any Inclosure shall have been marked and staked out, the Valuer acting in the matter of such Inclosure may direct the same to be entered upon by the persons respectively for whom the same shall be intended; and immediately after the Valuer shall so direct them to be entered upon, all leases, agreements and tenancies at rack-rent subsisting of any part of the Land to be inclosed, or which shall be exchanged in pursuance of this Act, or any common right thereon, shall, so far only as respects the Land to be divided and allotted or exchanged or common right, cease and be void at such time or times as the Valuer shall, by writing under his hand, direct or appoint, so as the respective lessors or landlords of such Land do, before or at the respective times at which such leases, agreements or tenancies shall be directed to cease, make and pay such satisfaction to the respective lessees or tenants for the loss which shall be sustained by the determination of such leases, agreements and tenancies respectively, so far as regards the Land or common right, the leases, agreements and tenancies whereof are hereby authorized to be determined as shall be mutually settled and agreed between them, or as the Valuer, being required by either of the parties, shall ascertain and direct; and the Valuer, being so required, is hereby empowered and directed, by writing under his hand, to apportion a reasonable and proportionable part, having regard to the season of the year, of the rent reserved on any such lease, agreement or tenancy for or in respect of the time which shall have elapsed between the last day on which any payment of the rent shall have become due and the determination of any such lease, agreement or tenancy, and such part of the rent shall be recoverable by such ways and means as may by law be used for the

recovery

recovery of rent in arrear; and the Valuer is hereby empowered and directed, in every case where such Land or common right shall be held by virtue of any such lease, agreement or tenancy, together with other Lands or hereditaments, by one entire rent, by writing under his hand, to apportion and determine what part of such rent shall be deducted in respect of the Land or common right in such lease, agreement or tenancy comprised, as to which the same shall be determined as aforesaid, and from what time such deduction shall take place; and the rest of the rent reserved on any such lease, agreement or tenancy shall during the remainder of the term thereof be the rent of and for the residue of such Lands and hereditaments, and shall be payable and recoverable in like manner as the entire rent reserved by such lease, agreement or tenancy shall immediately before such apportionment be payable and recoverable; and the lessor or reversioner shall in respect of such apportioned rent, and in respect of the residue of such Lands and hereditaments, have the benefit and advantage of the provisoes and conditions which would have been applicable to the entire rent, and to all the Lands and hereditaments comprised in such lease, agreement or tenancy in case such lease, agreement or tenancy had not been determined as to any part of such Land.

92. Seigniories not affected except with consent.

Provided always, and be it Enacted, That in every case all seigniories, royalties, franchises and manorial jurisdictions whatsoever, in or upon the Land to be inclosed under this Act, shall not be deemed to be compensated or extinguished, but shall be saved and excepted out of the operation of this Act, unless in and by the award it shall be declared, with the consent of the Lord or respective Lords interested therein, that such seigniories, franchises, royalties and jurisdictions shall be extinguished upon the proposed Inclosure.

93. Minerals under regulated pastures may be reserved while minerals under Lands to be held in severalty are relinquished.

Provided always, and be it Enacted, That in every case in which, under the provisions hereinafter contained, part of the Land subject to be inclosed under this Act shall be converted into and used as a regulated pasture, and the residue thereof shall be divided and allotted in severalty, it shall be lawful for the Valuer, having regard to the right of the Lord of the Manor, as the same shall have been ascertained and declared by the provisional order of the Commissioners and with the consent of the Lord of the Manor, and a majority in value of the other persons interested in the Lands proposed to be inclosed, to direct that the rights of the Lord of the Manor in and to the mines and minerals under such part of the Land as shall be converted into and used as a regulated pasture, shall be reserved to the Lord, and that the mines and minerals under the residue to be divided and allotted in severalty, shall become the property of the owners of the respective allotments, and that the allotments be adjusted accordingly.

94. Right to Mines under Land inclosed, existing distinct from the property in the surface, and not compensated upon inclosure, not affected.

Provided also, and be it Enacted, That in every case in which the right to the mines and minerals under any Land inclosed under this Act shall exist as property distinct and separate from the property in the surface, and shall not be compensated upon the Inclosure, the right and property in such mines and minerals shall be in nowise affected by the Inclosure; and in case any mines and minerals under any Land inclosed under this Act, or the right of searching for or getting the same shall have been leased or agreed to be leased to any person as property distinct and separate from the property in the surface, with or without powers over the surface of the Land auxiliary to the purposes of such lease, the rights of the lessee or tenant under such lease or agreement shall be in nowise affected by the Inclosure.

95. Trees to be allotted with the Land.

And be it Enacted, That the timber-trees and other trees and underwood standing and growing upon any Land to be inclosed shall be allotted and go along with the Land whereon they respectively stand, and shall be deemed the property of the several persons to whom the same Land shall be respectively allotted, such person paying to the owner of such trees and underwood such sums of money for the same, and at such time or times and place or places, as the Valuer shall by writing under his hand direct; but if the parties who are to make such respective payments shall neglect or refuse to make the same accordingly, then it shall be lawful to and for the respective parties who shall be entitled to have and receive such payments to enter on the said Lands, and cut down, take and carry away to their own use the said trees and underwood in respect of which the said payments were respectively to be made to them at any seasonable time or times within *One Year* next after such neglect or default, doing as little damage on the Land as may be.

96. Cattle not to be depastured on Roads.

And be it Enacted, That no person shall graze or keep any horse, beast, cattle, sheep or swine upon any of the roads or ways which the Valuer shall order to be set out, and which shall be fenced on both sides for the space of *Seven* Years next after the execution of the award; and every owner of Land to be inclosed, his servants and labourers, and also every peace officer and parish officer of the parish in which the Land shall be situate for the time being, is hereby empowered to take and impound any such horse, beast, cattle, sheep or swine which shall be found so grazing as aforesaid, as cattle damage feasant: Provided always, That nothing herein contained shall prevent the proprietors of the Land which shall next adjoin the private roads and ways from depasturing their cattle thereon, so far as the frontage of their respective Land extends.

97. Alteration may be made in Allotments.

And be it Enacted, That it shall be lawful for the Valuer acting in any Inclosure, at any time before the confirmation of the award, with

with the approbation or by the direction of the Commissioners, to make any alterations which he may think right and expedient in the allotments or in the fences which he may have set out and ordered, or in the private roads he may have set out, or in any of the orders or directions relating thereto which he may have made in the matter of such Inclosure; and in case any person shall be injured by any such alteration on account of any expenses he may have incurred or otherwise, the Valuer shall ascertain and determine what recompense shall be made to him for such injury, and shall either pay the amount thereof out of the monies raised for the expense of the Inclosure, or shall direct by whom and in what manner such recompense shall be made; and in case of non-payment thereof, the same shall be recovered in the same manner as penalties and forfeitures are recoverable under this Act.

98. Report of the Valuer.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall as soon as conveniently may be, after the division and allotment of the Land to be inclosed shall be completed, draw up a report in writing, with a map thereunto annexed, which shall specify all the claims allowed and all the allotments, exchanges and partitions made in the matter of such Inclosure, and all roads, ways and works set out or directed to be made by the said Valuer; and such report shall contain all such particulars in relation to such allotments, roads, ways and works as are by this Act directed, and all such other directions and determinations authorized by this Act, as the said Valuer shall think proper for the purposes of the Inclosure; and the map to be annexed to such report shall comprise and show the Land to be inclosed and the Lands exchanged, and also the Lands in respect of which any allotments of the Land inclosed shall have been made, and shall distinguish by proper references the allotments made in respect of the several Lands respectively, and such other particulars as the Commissioners shall by any general or special instructions in relation to such report direct the Valuer to set forth therein; and such report shall be signed by the Valuer, and shall, together with the map thereunto annexed, be sent to the Office of the Commissioners.

99. Deposit of Report.

And be it Enacted, That as soon as the report of the Valuer shall have been sent to the Commissioners, they shall cause a copy of the same to be deposited at some convenient place within the parish in which the Land to be inclosed or some part thereof shall be situate, for the inspection of all persons interested in such Land; and shall forthwith cause notice to be given in such manner as to them shall seem fit, where the said copy may be inspected; and shall also in such notice appoint some convenient place, and such times as they shall think necessary (the first not earlier than *Twenty-one* Days from the first giving of such notice), for holding a meeting to hear objections to any allotment, direction, determination or matter in the report;

and the Commissioners or some Assistant Commissioner at such meeting as aforesaid, shall hear and determine any objections which may be then and there made to any such allotment, direction, determination or matter by any person interested therein, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting; and may, if they or he shall see occasion, direct any further valuation or survey of the Land or any part thereof, and take such other measures for ascertaining the justice and propriety of the determinations and directions of the Valuer, as to the Commissioners or Assistant Commissioner shall seem proper; and from time to time, if they or he shall see occasion, fix further meetings for the hearing and determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed, with regard to the original meeting; and when the said Commissioners or Assistant Commissioner shall have heard and determined all such objections, and made such inquiries as the Commissioners shall think fit in relation thereto, the Commissioners shall approve such report, or cause the allotments, directions, determinations and matters therein mentioned, or any of them, to be amended as they shall see occasion.

100. Award.

And be it Enacted, That after such proceedings as aforesaid shall have been had, and all such objections to such report (if any) shall have been finally disposed of, and such amendments (if any) shall have been made in the allotments, directions and matters therein contained as aforesaid, the Valuer, under the direction of the Commissioners, shall cause to be drawn up and engrossed on parchment the award in the matter of such Inclosure, which shall be signed by the Valuer, and shall contain or set forth the allotments, exchanges, partitions, directions and matters contained in such report if so approved as aforesaid, or such allotments, exchanges, directions and matters therein contained as the same shall have been amended as aforesaid, and shall annex to such engrossment the map referred to by such report; and the Commissioners shall confirm such award, with the date of such confirmation thereunto annexed, under their hands and seal.

101. Award conclusive.

And be it Enacted, That such confirmation as aforesaid shall be conclusive evidence that all the directions of this Act in relation to such award, and to every allotment, exchange, partition and matter therein set forth and contained, which ought to have been obeyed and performed previously to such confirmation, shall have been obeyed and performed; and no such award shall be impeached by reason of any mistake or informality therein, or in any proceeding relating thereunto, or on account of any want of any notices or consents required by this Act, or on account of defects or omissions in any previous

previous proceeding whatever in the matter of the Inclosure; and every allotment, exchange, partition, direction, matter and thing specified and set forth in such award as aforesaid, shall be binding and conclusive on all persons whomsoever.

102. Allotments to be in compensation of previous rights.

And be it Enacted, That the several allotments which shall upon any Inclosure under this Act be allotted to the several persons who shall be entitled to the same, shall when so allotted be and be taken to be in full bar of and satisfaction and compensation for their several and respective Lands, rights of Common, and all other rights and properties whatsoever, not excepted or reserved by this Act, or by the award in the matter of such Inclosure, which they respectively had or were entitled to in and over the said Lands immediately before such Inclosure; and that from and immediately after the confirmation of the award by the Commissioners, or at such earlier time as the Valuer, with the approbation of the Commissioners, shall by notice on the church-door direct, all rights of Common, and all rights whatever by the Inclosure intended to be extinguished, belonging to or claimed by any person whomsoever in or upon such Lands, shall cease, determine and be for ever extinguished.

103. Allotment Wardens.

And be it Enacted, That the allotment which upon any Inclosure under this Act shall be made for the labouring poor, shall be under the management of the incumbent of the parish in which such allotment shall be situate, (or the officiating minister for the time being, nominated by the incumbent for that purpose), the churchwarden, if there be but one, or (if there be more than one), one of the churchwardens for the time being, one of the overseers of the poor for the time being of such parish, and two other persons who shall be rated to the relief of the poor in such parish, and such churchwarden, where there is more than one churchwarden, and such overseer shall be yearly named, and such two other persons shall be yearly chosen at the same time and by the same persons and in the same manner as the overseers of the poor for such parish shall be chosen, and shall continue in office in like manner until the next election of overseers, or until others are named and chosen in their stead, and such incumbent (or officiating minister), churchwarden, overseer and two other persons for the time being, shall be styled "The Allotment Wardens" of the parish, and shall manage and let the said allotment as hereinafter provided, and all things by this Act authorized to be done by such Allotment Wardens, may be done by any two of them, and in the event of the death or retirement from office of any one or more of the said Allotment Wardens, the surviving or continuing Wardens may act as if no such vacancy had happened.

104. Allotments how to be let.

And be it Enacted, That the Allotment Wardens shall from time to time let the allotment under their management in gardens, not exceed-

ing half an acre each, to such poor inhabitants of the parish for one year, or from year to year, at such rents payable at such times and on such terms and conditions, not inconsistent with the provisions of this Act, as they shall think fit: Provided always, That the gardens so to be let shall be let free of all tithes or tithe rent-charge (if any), rates, taxes and assessments whatsoever, and shall, before the first letting thereof, and once at least in every Ten Years after such first letting, be valued by a competent person to be appointed by the Allotment Wardens for that purpose, who shall estimate the full rent which the same would be worth, to be let by the year for farming purposes, all tithes or tithe rent-charge, rates, taxes and assessments, being borne by the landlord, and shall verify such valuation by solemn declaration under the statute, and the rent at which the same gardens respectively shall be let, shall be not below the full yearly value of the land, according to the last of such valuations, and the Allotment Wardens shall, for the purposes of all rates and taxes, be deemed the occupiers of such allotment, and shall pay all rates and taxes, tithes and tithe rent charge (if any) in respect thereof.

105. Recovery of gardens on non-payment of Rent, &c.

And be it Enacted, That if the rent reserved upon the letting of any garden by the Allotment Wardens shall at any time be in arrear for *Forty* Days, or if at any time during the tenancy being not less than *Three* calendar Months after the commencement thereof, it shall appear to the Allotment Wardens, that the occupier of such garden shall not have duly cultivated the same, or if such occupier shall not have duly observed the terms and conditions of his tenancy, or shall have gone to reside out of the parish, then, and in every such case, the Allotment Wardens shall serve a notice upon such occupier, or in case he shall have gone to reside out of the parish, shall affix the same to the door of the church of the parish, determining the tenancy at the expiration of *One Month* after such notice shall have been so served or affixed, and thereupon such tenancy shall be determined accordingly.

106. Possession, how to be recovered from Tenant holding over.

And be it Enacted, That in case, upon the determination of any such tenancy as aforesaid, the occupier of any such garden shall refuse to quit and deliver up possession thereof, or if any other person shall unlawfully enter upon, take or hold possession of any such garden, or of any part of such allotment, the Allotment Wardens may recover possession according to the mode prescribed by an Act passed in the second year of the reign of Her Majesty Queen Victoria, intituled, "An Act to facilitate the recovery of Possession of Tenements after due Determination of the Tenancy," in such and the same manner as if the said Wardens were landlords or a landlord, and as if such over holding occupier or other person were a tenant neglecting or refusing to quit and deliver up possession within the meaning of the last-mentioned Act.

And

107. Rents of Allotment how to be applied.

And be it Enacted, That all rents payable in respect of the allotment under the management of the Allotment Wardens shall be payable to such Wardens, who shall have the same remedies for recovery thereof by distress and otherwise, as if the legal estate of and in such allotment were vested in them under this Act, and such rents shall be applicable, in the first place, to the payment of all rates, taxes, tithes, tithe rent-charge, and of the rent-charge charged on such allotment under the provisions of this Act, and of all expenses incurred by the Allotment Wardens in the execution or their trusts and powers under this Act, and the residue, if any, of such rents shall be paid to the Overseers of the poor in aid of the poor-rates of the parish, and be applicable in the same manner as and subject to all the provisions concerning the monies assessed for the relief of the poor.

108. Arrears of Rent how recovered.

And be it Enacted, That all arrears of rents for any garden let by the Allotment Wardens shall, in case there shall be no sufficient distress on the premises, be recoverable in the same manner as penalties and forfeitures are recoverable under this Act.

109. Allotments may be subdivided by supplemental order.

Provided always, and be it Enacted, That when any award so confirmed as aforesaid shall not have distinguished the several tenures of any of the Lands therein mentioned, or the different estates or titles for or under which the same shall be held, or shall have set out and awarded an aggregate allotment in any case in which there should have been set out and awarded several and distinct allotments, it shall be lawful for the Commissioners at any time within *Twelve* Months after the confirmation of the award, upon request in writing to them made by any person interested in any such aggregate allotment, to do all such acts as may be necessary for supplying such omission, and for subdividing such aggregate allotment, and for that purpose to examine witnesses, and proceed as if the said award had not been confirmed; and by any order or instrument under their hands and seal, to subdivide any aggregate allotment into separate allotments, and to distinguish and set out the allotments and Lands held by different tenures, and also the allotments and Lands held by, for or under different estates or titles respectively, in the same manner as by this Act is authorized and required to be done in cases where such allotments and Lands are directed to be ascertained, distinguished and set out by the Valuer; and every such separate instrument shall have the same power and effect as if it were contained in the said award; and such instrument shall be engrossed and deposited with the award, and shall thenceforth be deemed to be part thereof to all intents and purposes; and all the expenses which shall be reasonably incurred in or about any such subsequent inquiry or separate instrument as aforesaid, and the engrossment thereof, shall be paid by the party who shall have requested the

Commissioners to make and execute the same, or by his executors or administrators.

110. Regulated Pastures may be set out.

And be it Enacted, That it shall be lawful for the Commissioners on the application in writing of persons interested in any Land which shall be directed to be inclosed under this Act, whose interest shall exceed in value *One-half* of the whole interest in such Land (such application to be made at any time before the instructions to the Valuer shall have been delivered to him under the seal of the Commissioners as hereinbefore provided), to direct such Land or any part thereof to be converted into and used as a regulated pasture, to be stocked and depastured in common by the persons interested therein in proportion to their respective rights and interests, as the same shall be determined on the examination of claims; and in case part of such Land only shall be so directed to be stocked and depastured in common, the Valuer shall, subject to the instructions which shall be given to him under the provisions of this Act, ascertain and set out the part which shall be so used as a regulated pasture, and shall direct how and at whose expense the same shall be fenced and divided from the residue of such Land; and the Valuer acting in the matter of such Inclosure shall in every case where Land shall be so directed to be used as a regulated pasture, ascertain and allot the respective stints or rights of pasturage (specifying the respective numbers of the respective kinds of stock or animals to be admitted to the pasture in respect of such respective stints or rights of pasturage, with such option as to equivalent numbers of the respective kinds of stock and animals as he shall think just, and if he shall think fit, specifying the time during which such stock or animals may be kept on the pasture), as he shall adjudge and determine to be proportionate to the value of the respective rights and interests of the persons interested as aforesaid; and the Commissioners may frame such directions as they shall think fit for guiding the Valuer in the correct specification of such stints or rights: Provided always, That in every case in which part only of the Land subject to be inclosed under this Act shall be so directed to be used as a regulated pasture, and the residue thereof to be divided and allotted in severalty, it shall be lawful for such Valuer, having regard to the convenience of the persons interested in such Land, to award to any such person either a stint or right of pasture, or an allotment in severalty only, or both a stint or right of pasture and an allotment in severalty, so as such stint or right only or such allotment only, or (as the case may be) such stint or right and allotment together, be in the judgment of the Valuer proportionate to the right and interest in respect of which the same shall be awarded: Provided also, That in any case in which it shall appear to the Valuer that the proportionate right or interest of any person is too small to be conveniently compensated by a stint or

right

right of pasture, or that it is not practicable wholly to compensate such person by a stint or right of pasture, and the circumstances of the Inclosure will not admit, in the judgment of the Valuer, of an adjustment or compensation by an allotment in severalty, it shall be lawful for such Valuer, for the purpose of compensation or adjustment, to direct a sum of money to be paid to such person in lieu of or (as the case may require) in addition to the award of a right of pasture or stint; and such sum of money shall be paid out of the monies applicable to the payment of the expenses of the Inclosure.

111. Conversion into regulated Pasture to be deemed an Inclosure.

And be it Enacted, That all the provisions and powers hereinbefore contained in relation to public and private roads, ways and works, and all other the powers, provisions and directions, penalties and forfeitures applicable to the case of an Inclosure under this Act, and the provisions and directions concerning examination of claims, and the rehearing thereof, and the report of the Valuer, and the amendment of the matter thereof, and the award, and the confirmation and effect of the award shall be applicable to the case where the Land subject to be inclosed shall be directed to be used as a regulated pasture; and the word "Inclosure" shall in every case in this Act, where the context is not repugnant to such construction, include the conversion of Land subject to be inclosed into such regulated pasture, and the proceedings in relation thereto.

112. Rule of Rating to be established.

And be it Enacted, That in every case in which Land shall be directed to be converted into and used as regulated pasture under this Act, the Valuer acting in the matter of the Inclosure shall determine and direct the proportionate shares or aliquot parts which the respective owners, for the time being, of the several stints or rights of pasture shall be liable to pay of any sum of money which shall be raised by way of rate on such owners under the provisions of this Act; and such determination and direction, in case the same shall be approved, or as the same may be amended by the Commissioners, shall be for ever after observed in every rate to be made under the provisions of this Act, and shall be the rule also, according to which the proportionate values of the stints shall be determined in taking the votes of the owners of stints under the provisions hereinafter contained.

113. Property of Soil of regulated Pastures.

And be it Enacted, That the right of soil of and in all Land which shall be converted into regulated pastures, shall, subject to the right of the Lord of the Manor to the mines and minerals where the same shall be reserved to him under this Act, and to the other rights given or reserved by this Act and the award in the matter of such Inclosure, be vested in the persons who, under the directions and determinations of such award, shall be the owners of the stints or rights of pasture therein,

therein, in proportion to the shares or aliquot parts which such stints shall be thereby declared liable to of any rate under this Act as tenants in common.

114. Election of Field reeves.

And be it Enacted, That where any Land shall have been converted into a regulated pasture under the provisions of this Act, a meeting shall be called by the Commissioners of the owners of the stints or rights of pasture at such time after the confirmation of the award as the Commissioners shall, by notice on the church-door, appoint; and the major part in value of such owners present at such meeting shall elect a fit person or persons to be field reeve or reeves of such regulated pasture, and every field reeve so to be elected as aforesaid, or to be elected or re-elected at any subsequent meeting, shall continue in office until the expiration of *Fifteen* Days after the day of the annual meeting of such owners then next following, and no longer, unless he shall be re-elected at such annual meeting; and such owners shall ever after such first meeting meet for the election of a field reeve or field reeves on the First Monday in February in every year, and the owners assembled at such meetings shall from time to time fix, increase or diminish the salary or payment to be made to every such field reeve, and may appoint or authorize any field reeve to appoint and employ herds and assistants as such owners may think fit; and any such field reeve may be removed by *Four-fifths* in value of the owners of stints present at any meeting called for the purpose by *Fourteen* Days' notice on the church door, under the hands and seals of any Two Justices of the Peace; and in case any such field reeve shall die while he shall hold such office, or shall be removed as aforesaid, it shall be lawful for the majority in value of owners of stints or pastures present at any meeting, which upon such vacancy any Two owners may call, by *Fourteen* Days' notice on the church-door, to appoint a field reeve in his place, who shall hold the office until the expiration of *Fifteen* Days after the then next annual meeting; and a certificate in writing, under the hands and seals of Two Justices of the Peace of the election of any field reeve (which certificate any Two Justices of the Peace are authorized, if they think fit, to give on the request and upon the declaration of any owner of such stints present at the meeting at which the election shall have taken place), shall in all matters and proceedings whatsoever, in which any acts done by any field reeve in the execution of his office shall be in question, be evidence that he was duly appointed field reeve.

115. Duties of Field reeves.

And be it Enacted, That the field reeve or reeves for the time being of every such regulated pasture shall, subject to such orders and instructions in writing as may from time to time be agreed on by the majority in value of the owners of such stints as aforesaid, at their yearly meetings, regulate

regulate the times in each year during which stock or animals shall be admitted to and excluded from such regulated pasture, and shall maintain and keep in order the fences, gates, ditches, drains, watercourses, embankments, jetties and weirs, or make any new fences, gates, ditches, drains, watercourses, embankments, jetties or weirs, and do all works necessary for the maintenance and improvement and good order of such regulated pasture; and shall and may distrain all stock and animals found thereon, contrary to the regulations of such pasture, and do all other acts for the maintenance and improvement of such regulated pasture, and the convenient use and occupation thereof, as the field reeve or reeves, subject to such instructions as aforesaid, may think fit; and where there shall be any buildings on such regulated pasture, or where the majority in value of the owners of stints at any yearly meeting shall direct that any buildings be erected thereon, such field reeve or reeves shall or may maintain and keep in repair such buildings, or cause such buildings to be erected in pursuance of such direction, and let the same from year to year, or under such instructions as aforesaid, for any term of years, and shall receive the rents thereof; and such rents shall be applicable in the first place to the same purposes as the rates hereinafter authorized to be raised on the owners of stints are made applicable, and the residue (if any) shall be paid to the owners of stints in proportion to the respective liability of their stints to such rates.

116. Provision for rateable increase or diminution of rights.

And be it Enacted, That when it shall appear to the majority in value of the owners of stints present at any annual meeting that the condition of the pasture would admit of an increase of the respective rights of pasture thereon, or would require a diminution of such respective rights, it shall be lawful for such majority of the owners so present to direct that the respective number of stock or animals to be admitted to the pasture in respect of the several rights be increased, or, as the case may be, diminished, rateably, to such extent as they shall think fit: Provided always, That in case it shall happen that the right of any such owner shall not be sufficient to admit of a rateable increase or diminution, such annual money-payment shall be made to such owner in lieu of increase of his right, or, as the case may be, charged on such owner in lieu of the diminution of his right, as such majority shall award; or in case the person to or on whom such money-payment shall be awarded or charged shall think the sum awarded insufficient, or the sum charged excessive, then as any Two Justices of the Peace shall, upon the complaint of such person, and after summons of the field reeve or one of the field reeves of such pasture, (which may be in the form in the Schedule to this Act), and on hearing in a summary way the matter in difference, think reasonable, and order to be paid, and such order may be in the form in the Schedule to this Act; and every such money-payment payable in lieu of increase

of right shall be paid annually by the field reeve out of the monies raised by the rate made for the expenses of such regulated pasture; and the money charged on any such owner shall be recoverable as a rate on owners of stints is hereby made recoverable; and all annual payments payable as aforesaid, shall be payable on the First Monday in February in every year.

117. Expenses to be raised by Rate.

And be it Enacted, That all salaries and allowances to field reeves and other persons and all expenses in and about the management of every such regulated pasture, and the repairs and erection of buildings thereon, under the directions of such meetings of owners as aforesaid, and all other expenses of such regulated pasture, shall be paid and defrayed by the owners of the respective stints therein; and for that purpose it shall be lawful for the field reeve, or one of the field reeves, under the directions of any such meeting of owners, from time to time to make a rate on the respective owners for such sum as the majority of owners present at such meeting shall think requisite; and every such rate shall be apportioned and paid by the owners according to the rule of rating established for such regulated pasture, and shall be paid to the field reeve on demand thereof; and in case the same shall not be paid within *Fourteen* Days after demand thereof, shall be recoverable by distress; and it shall be lawful for any field reeve to exclude from such regulated pasture the stock or animals of any owner or his tenant whose proportion of the rate shall be in arrear and unpaid for *Fourteen* Days after demand thereof, until the proportion of such rate so in arrear shall be fully paid; and any such demand or distress may be made of or on the occupier of any such stint as if the occupier were the owner liable to the payment of such rate, and such rate may be paid by any such occupier on demand thereof, and the money so paid by such occupier shall be deemed a payment on account of his rent, and shall be allowed by his landlord accordingly.

118. Power to apply the Act to Pastures already stinted.

And be it Enacted, That where any Land shall be already occupied as a gated or stinted pasture, and any of the persons interested in such gated or stinted pasture, whose interests shall not be less in value than *Two-thirds* of the whole interest therein, shall be desirous that such gated or stinted pasture should be subject to the provisions of this Act concerning regulated pastures, without being subject to the other provisions concerning lands subject to be inclosed under this Act, and shall make application in writing to the Commissioners to take proceedings for that purpose, it shall be lawful for the Commissioners, after making such inquiries as may appear to them necessary, to cause to be ascertained by any Valuer to be appointed or approved by the Commissioners for that purpose, the proportionate rights and interests of the several persons interested in such pasture, and also the respective rights of pasture to which, having reference to the productiveness

of

of such gated or stinted pasture, the several persons interested therein may, in the judgment of such Valuer, be entitled, and such Valuer shall determine and direct, as hereinbefore mentioned, the proportionate liability to rates under this Act, of the occupiers of stints or rights of pasture, and in like manner as in case of the conversion into regulated pasture of Land subject to be inclosed upon an Inclosure under this Act; and the Commissioners shall hear, or cause to be heard by an Assistant Commissioner any objections to the determinations of claims by and to the report of the Valuer respectively, and approve or amend such determinations and such report respectively as they shall think fit; and the Valuer, under the direction or with the approval of the Commissioners, shall frame and cause to be engrossed an award, setting forth such draft award and the matter of such report, and the Commissioners shall confirm the same, with the date of the confirmation under their hands and seal; and from and after the confirmation of such award, such gated and stinted pasture shall be subject to all the provisions herein contained concerning Land subject to be inclosed, converted into and used as regulated pasture, and shall be rateable under such provisions according to the rule of rating as set forth in such award, and such award shall be as binding and conclusive as if the same had been made and confirmed on an Inclosure under this Act.

119. Expenses of application of Act to Pastures already stinted.

And be it Enacted, That all the expenses of or attending the proceedings for subjecting Lands already used as gated or stinted pasture, to the provisions of this Act, concerning Lands subject to be inclosed, converted into or used as regulated pasture, shall be paid and borne by the persons interested therein, in proportion to their respective liabilities to rates under this Act, according to the rule of rating established in respect of such gated or stinted pasture under this Act; and shall be paid at such time and place, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and shall be recoverable in such and the same manner as the expenses of an Inclosure made in pursuance of this Act.

120. Power to enter Land for Surveys, &c.

And be it Enacted, That for surveying and valuing any Land to be inclosed or otherwise dealt with under this Act, and for the other purposes of this Act, it shall be lawful for the Commissioners or an Assistant Commissioner or Valuer, or any person or persons to be appointed by such Commissioners, Assistant Commissioner or Valuer to make any survey, admeasurement, plan or valuation with assistants and servants, and at any time or times whatsoever, until the Inclosure or other proceedings under this Act shall be completed, to enter into, view and examine, survey or admeasure all and every part of the Land to be inclosed or dealt with, and also any Lands necessary or

proper to be surveyed or valued for the purposes of such Inclosure, and to do or cause to be done any act or thing necessary for putting this Act into execution.

121. Expenses of Inclosures.

And be it Enacted, That the allowances and payments to be made to and by the Valuer, and all other the expenses of every Inclosure, except the allowances and salaries to the Assistant Commissioners, Secretary, Clerks, Messengers and officers of the Commissioners, and the travelling and other expenses of the Commissioners and Assistant Commissioners, and except any expenses which the Commissioners or Assistant Commissioner, or any court under the powers of this Act shall order to be otherwise paid, shall be borne and defrayed by the several persons interested in the Lands to be inclosed (except the Surveyors of Highways, Churchwardens and Overseers and persons to whom Lands shall be allotted for public purposes, in respect of the allotments hereinbefore authorized or directed to be made to them respectively), in such shares and proportions, and shall be paid at such time and place, or respective times and places, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and such Valuer shall give notice requiring payment of the respective shares and proportions of such expenses on the church-door, or deliver to the respective persons liable to the payment of such expenses, at least *Fourteen* Days before the time appointed for such payment, a copy of such order; and the Valuer shall from time to time make estimates of all such expenses, and raise the amount of such estimates at such times as he shall, with such approbation of the Commissioners, deem proper, either before or after the confirmation of the award.

122. Remedies in case of non-payment of Expenses.

And be it Enacted, That if any person shall refuse or neglect to pay his proportion of such expenses within such time and to such person as the Valuer shall appoint, it shall be lawful for the Valuer to recover the same, together with lawful interest, to be computed from the day on which the same ought to have been paid, by action at law in his own name, in any of Her Majesty's Courts of Record at Westminster; or it shall be lawful for him by warrant directed to any person whomsoever, to cause the same, with such interest thereon as aforesaid, to be levied by distress, or it shall be lawful for the Valuer, or any person authorized by him immediately after such neglect or refusal, to enter into and upon the premises so to be allotted to such person, and demise the same, or to demise any stint or right of pasture allotted to such person, and receive the rents and profits thereof respectively, until thereby or otherwise such share or proportion, with lawful interest as aforesaid, and also all the costs and expenses attending such entry upon, and demise and receipt of the rents and profits of the said premises, shall be fully paid and satisfied.

Provided

123. Power to make additional Rate.

Provided always, and be it Enacted, That if at any time after the allotments shall have been staked out it shall appear to the Valuer, either before or after the confirmation of the award, that the money to arise by any previous rates will not be sufficient to defray the expenses aforesaid, the deficiency shall, with such approbation of the Commissioners as aforesaid, be made up and raised from time to time by a rate to be made and levied upon the several persons interested in the Lands to be inclosed (except as aforesaid), in such shares and proportions, within such time, and to be paid to such persons as the Valuer shall from time to time direct; and in case any persons hereinbefore made subject to the payment of any money towards such expenses shall neglect or refuse to pay his share or proportion of any such rate within the time appointed for that purpose, or at any time after such demand, the same shall be levied and recovered in the manner directed by this Act with respect to the previous rate.

124. Commissioners may remove Valuers.

And be it Enacted, That if any Valuer chosen or appointed to act in the matter of any Inclosure or other matter under this Act shall, before his duties shall be fully performed, refuse to attend to or become by sickness or otherwise incapable to act in such matter, or shall in the judgment of the Commissioners neglect his duties, or misconduct himself in his office, or become or be found incompetent or unfit to act as a Valuer under this Act, it shall be lawful for the Commissioners, by order under their hands and seal, to remove him from the office of Valuer; and if any Valuer shall be so removed, or shall die, it shall be lawful for the Commissioners, by order under their seal, to appoint a Valuer in his stead; and the Valuer so appointed shall have the same powers as if he had been chosen at a meeting of the persons interested in the Land in manner hereinbefore directed.

125. Repayment to Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour and expenses of the Assistant Commissioners, and all other persons employed and paid by the Commissioners in or about any Inclosure, exchange, division, partition or other proceeding under this Act, by any order under their hands and seal, to order and declare that a sum, in such order to be mentioned, be paid to the Commissioners in respect of the proportion of the general expenses of the Commissioners which ought to be borne in respect of such Inclosure, exchange, division, partition or other proceeding; and the Commissioners shall by such order declare such sum to be charged on the persons interested in the Land to be inclosed, or to which such proceeding shall relate, in such shares as they shall think just, and shall appoint a time for payment thereof; and the same shall be raised in the same manner as the expenses of the Inclosure, or of subjecting the Land to the provisions concerning regulated pasture, are directed to be raised under this Act, and be deemed part of the expenses of the Inclosure or matter aforesaid, or in the case of an

exchange, division or partition, in the same manner as the expenses of such exchange, division or partition, and when raised shall be paid to the Commissioners, who shall forthwith pay the same into Her Majesty's Exchequer, to be carried to the account of the Consolidated Fund.

126. Persons attending Meetings to pay their own Expenses.

Provided always, and be it Enacted, That the several persons interested in the Inclosure or other proceeding under this Act, and their respective agents, shall pay their own expenses whenever they shall attend any of the meetings to be held in the matter of any Inclosure.

127. Expenses of Witnesses.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof, and all other expenses, (except the salary or allowance to any Assistant Commissioner) incurred in the settlement of any suit or difference, or in the hearing and determining any objection to any award or apportionment before the said Commissioners, or any Assistant Commissioner, to be paid by such parties interested in the production thereof respectively; or in the event of such suit, difference or objections, and in such proportions as the Commissioners or Assistant Commissioner shall think fit and reasonable.

128. Power to mortgage Allotments.

And be it Enacted, That it shall be lawful for the respective persons interested in allotments in severalty, or allotments of stints or rights of pasture respectively, to be made under this Act, being tenants for life or in tail, or for any other estate of freehold or inheritance, and also for the husbands, guardians, trustees, committees or attornies of any of the proprietors being under coverture, infants, lunatics, idiots, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, and for the trustees or feoffees for charitable, parochial or other uses, or the majority in number of them in respect of any Lands held by them in trust for any charitable, parochial or other uses (with the consent of the Commissioners testified in writing under their hands and seal), from time to time to charge their respective allotments with any money not exceeding as to any allotment in severalty *Five Pounds* per acre, towards their respective proportions of the Inclosure expenses, and for securing the repayment of such money with interest to mortgage or demise the said allotments unto or in trust for any person who shall advance any money for any term of years, but so that every such mortgage or demise be made with a condition to cease, or upon trust to be surrendered or assigned when the money thereby to be secured, with all interest thereon, shall have been fully paid; and so that in every such mortgage

gage or demise which shall be made by or on behalf of any person entitled to any such allotment for the term of his natural life, there be contained a covenant to pay and keep down the interest of the money to be secured during his life, in such manner that no person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger arrear of interest than for *Six* Months previous to the time when the title of such person shall accrue or commence; and every such mortgage or demise shall be valid in the law for the purposes thereby intended; and every such mortgagee and his assigns shall have the like remedies in case of non-payment of the monies thereby secured, as in the case of other mortgages of the like nature.

129. Power to sell parts of Allotments.

And be it Enacted, That it shall be lawful for the Commissioners on application made to them in writing by any of the proprietors of allotments to be made by virtue of this Act, or by any of the husbands, guardians, trustees, committees or attornies of or for any of such proprietors being under coverture, infants, lunatics, idiots, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, or by any of the said proprietors being tenants in tail, or for life or by any trustees or feoffees for charitable, parochial or other uses, or by the majority in number of them, direct a sale of any part of any such allotment for raising a sum of money sufficient to defray the proportionable part of the expenses which shall in such rates be charged upon such parties, and of the expenses of making and completing such sale: Provided always, That in all cases in which the money so raised by any such sale shall not be equal to the money which might be borrowed or charged on such allotment as aforesaid, it shall be lawful for the proprietor, or the person hereinbefore authorized to direct a sale on behalf of the proprietor, part of whose allotment shall be sold as aforesaid, to charge his allotment with any sum not exceeding the difference.

130. Sales of parts of Allotments how to be made.

And be it Enacted, That such sales shall be made by the Valuer, with the approbation of the Commissioners in the same manner and subject to the same regulations as are hereinafter prescribed in respect of the sale of part of the Land subject to be inclosed towards defraying the expenses of the Inclosure; and every part of an allotment for which the full purchase-money shall be paid, shall be conveyed by the Commissioners at the expense of the purchaser as he shall appoint, and shall be inclosed and held by such purchaser in severalty: Provided always, That nothing herein contained shall enable the Commissioners to convey any allotments set out by them as copyhold or customary as freehold, but such copyhold or customary allotments shall be held by the purchaser thereof by, under and subject to the same rents, suits and services as such allotment would have been held, in case no such sale had been made.

131. Commissioners to receive and apply Purchase-money.

And be it Enacted, That the receipt of the Commissioners shall be a sufficient discharge to the purchaser for the said purchase-money; and such purchase-money shall be applied by the Commissioners in or towards defraying the costs and expenses for raising which such sale shall have been made; and the surplus (if any) shall be paid to the parties from whose allotments such sale shall have been so made respectively; and the shares of such of them as shall be tenants in fee-simple shall be paid to them respectively, and the shares of the other proprietors of such surplus money shall be applied and disposed of in manner hereinafter directed.

132. Application of Compensation-money of Parties under disabilities.

And be it Enacted, That when any money is under the provisions of this Act directed to be paid for the purchase of any timber or wood growing on any Land, which shall belong to any tenant for life or in tail, or to any feoffee in trust, executor or administrator, husband, guardian, committee or trustee, for or on behalf of any infant, idiot, lunatic, feme covert or cestuique trust, or to any person whose Lands are limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, or to any corporation not being legally and equitably entitled to sell and dispose of such timber and wood, it shall be lawful for the Valuer out of such money to defray the proportion (if any) of the Inclosure expenses which shall be charged upon the Land, or any land held under the same title, on which such timber or wood actually grew, and also, with the approbation of the Commissioners, to defray the expense of any permanent improvement, such as building, subdividing, dividing, draining or planting, and the like, which shall in the judgment of the Valuer be proper to be made, and shall be made under his direction upon any Land to be under the powers of this Act allotted to such parties.

133. Investment of Surplus when 200*l.* or upwards.

And be it Enacted, That if the surplus of any such monies or the surplus of any monies to arise from the sale of part of an allotment for raising money for expenses, where the same shall not be paid to the proprietors under the directions hereinbefore contained, shall amount to or exceed the sum of Two hundred Pounds, the same shall, with all convenient speed, unless the Commissioners shall otherwise direct, under the provisions hereinafter contained, be paid into the Bank of England, in the name and with the privity of the Accountant-general of the Court of Chancery, to be placed to his account there, exparte the Commissioners, pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and the Endorsements thereon, as likewise the Endorsements on South Sea Bonds;" and pursuant to the general rules and orders of the said Court, and without fee or reward, according to

to an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out upon proper Securities any Monies not exceeding a Sum therein limited out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-General of the said Court;" and shall, when so paid in, there remain until the same shall, by order of the said Court made upon a petition, in a summary way, by the parties who would have been entitled to the rents and profits of the said Land, be applied to the following purposes or any of them; (that is to say)

The redemption or discharge of the Land Tax, or of any debt or other incumbrance affecting the same Land, or affecting other Lands standing settled therewith, to the same or the like uses or trusts;

The purchase of other Land to be conveyed or settled upon the like uses or trusts, or such of them as shall be then existing, undetermined or capable of taking effect.

134. Payment of Dividends in the mean-while.

And be it Enacted, That in the mean time, and until such application shall be made, the said money may, by order of the said Court to be made upon the like petition, be invested by the said Accountant General in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities, or of Government Securities; and the dividends or interest of such Annuities or Securities shall from time to time be paid by order of the said Court to the parties who would, for the time being, have been entitled to the rents and profits of the Lands so to be purchased, conveyed and settled.

135. Application of money under 200*l.*

And be it Enacted, That in case the surplus of any such monies as aforesaid shall be less than the sum of Two hundred Pounds, and shall exceed or amount to the sum of Twenty Pounds, the same shall, at the option of the parties who for the time being would have been entitled to the rents and profits of the said Land, or their Guardians or Committees in case of infancy, idiotcy, lunacy or other incapacity, with the approbation of the Commissioners, to be signified in writing under their seal, be paid into the Bank of England, in the name and with the privity of the said Accountant-general of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option and with the like approbation to Two Trustees, to be nominated by the said parties who for the time being would have been entitled to the rents and profits of the said Land as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be

signified in writing under the hands (or common seal, as the case may be) of the nominating parties, and under the seal of the Commissioners; and in any case in which such monies shall amount to or exceed the sum of Two hundred Pounds, the same if the Commissioners shall so think fit and direct, shall in like manner be paid to Trustees to be nominated and approved as aforesaid; and the money so paid to such Trustees, and the dividends and produce arising therefrom, shall be by them applied in like manner as is hereinbefore directed, with respect to money so to be paid into the Bank of England, but without obtaining or being required to obtain any order of the said Court touching the application thereof.

136. Under 20*l.* And be it Enacted, That in case the surplus of any such monies as as aforesaid shall be less than Twenty Pounds, the same shall be paid to the parties for the time being entitled to the rents and profits of the said Land for their own use and benefit; or in case of infancy, idiotcy, lunacy or other incapacity, then such money shall be paid to their Guardians, Committees or Trustees for the use and benefit of the parties respectively entitled thereto.

137. Sale of Land by Valuer or Expenses. Provided always, and be it Enacted, That in case the Valuer acting in the matter of any Inclosure shall under the instructions hereinbefore required in this behalf proceed to raise all or any part of the expenses of the Inclosure by sale of part of the Land proposed to be inclosed, such Valuer shall set out such parts of the Land to be inclosed as he shall judge sufficient in value to defray the expenses aforesaid, and shall from time to time, as he shall find expedient, sell and dispose of the same by public auction or by private contract, with the approbation of the Commissioners; and the purchase-monies to arise by such sales shall be paid into the hands of the Commissioners, or as they shall direct, and shall be by them applied in discharging the said expenses.

138. Conveyances to be made by Commissioners. And be it Enacted, That upon every sale to be made by the Valuer under the provisions of this Act, the Commissioners shall sign and deliver to each purchaser a receipt for his purchase-money, which shall be a sufficient discharge for the same; and upon receipt of the whole purchase-money for any of the Lands which shall be sold as aforesaid, the Commissioners shall convey such Lands and the fee-simple and inheritance thereof in possession, by conveyance under their hands and seal to such uses, and in such manner as such purchaser shall direct; and after such conveyance, the premises conveyed shall be freehold o. inheritance, and shall be held to the uses and in manner expressed by such conveyance; and any such conveyance may be to the effect set forth in the Schedule to this Act, and shall be evidence of the regularity of the sale in pursuance of which such conveyance shall be made.

And

139. Application of purchase-monies.

And be it Enacted, That all such purchase-monies as shall be from time to time raised or received by the Commissioners by such respective sales as aforesaid, shall, after payment of the charges and expenses attending such respective sales, be paid and applied by the Commissioners towards the expenses of the Inclosure; and the respective purchasers or other persons paying the same, shall not in any manner be liable to see to the application, or be answerable for any misapplication thereof.

140. Power to sell instead of allotting Land.

And be it Enacted, That when under such instructions as hereinbefore required in that behalf, the Valuer shall have been directed to sell the whole of any Land proposed to be inclosed under this Act, except the part thereof directed to be appropriated for public purposes, the Valuer shall and may sell and dispose of the whole of such Land, except as aforesaid; and such sale, and the conveyance thereof to the purchasers, shall be made in all respects in the same manner as hereinbefore directed with respect to the sale of part of the Land proposed to be inclosed for payment of expenses; and the Commissioners shall in like manner receive the purchase-money to arise from such sales, and their receipt shall in like manner be a sufficient discharge to the purchaser for the same; and the Commissioners shall invest such purchase-money, after payment thereout of the expenses of the sale and of the Inclosure in the name of any corporation as Trustees, or in the names of Three or more Trustees, to be named or approved by the Commissioners for that purpose, in the purchase of Three Pounds per Centum Consolidated Bank Annuities, or Three Pounds per Centum Reduced Bank Annuities, and shall in and by the award cause to be apportioned and declared the shares of and in such annuities to which the several persons interested in the Land from the sale whereof the same shall have arisen shall be entitled, and in respect of what Lands or Estates they shall be entitled, in such manner as hereinbefore directed in case of allotments of Lands by the Valuer, or as near thereto as circumstances will admit; and shall also direct and declare that the dividends accruing from time to time in respect of such annuities, or the respective shares thereof, shall be applicable and applied by the Trustees to the payment of quit-rents, land-tax, or any other rent, tax, rate or annual charge, charged or to become charged upon any Lands remaining unsold, in respect of which the persons so declared entitled shall have been respectively declared to be entitled to such shares; and the residue, if any, of the dividends in respect of such shares shall be payable in the same manner as the rents of such Land would from time to time be payable; and in case any person so declared entitled shall not be entitled in respect of any Land remaining unsold, the dividends in respect of the share of such person in such annuities shall belong to the persons who, for the time being, would have been entitled to the Land or right in respect of

which such share of annuities shall have been allotted, in case the same had not been sold or extinguished; and such shares shall be considered in equity as real estate, and be transmissible accordingly: Provided always, That where it shall be shown to the satisfaction of the Trustees or Trustee for the time being of such annuities, that any person shall be entitled to or shall have acquired an absolute interest in any share thereof, such share may be transferred to such person, or as he may direct; and in such final award shall be contained such powers for the appointment of new Trustees from time to time, by such persons, and in such manner, and such directions for the indemnity and security of the Trustees, and for defraying out of the trust fund the expenses of the execution of the trust, as the Commissioners shall think fit.

141. Notice may be given to reversioners.

And be it Enacted, That the Commissioners, before authorizing or certifying the expediency of any inclosure or determining any claim or matter, or approving any report or award, or in any other stage of the proceedings on any Inclosure, or of the proceedings for subjecting any gated or stinted pasture to the provisions of this Act, concerning regulated pastures, if they shall see occasion, may require notice to be given in any such manner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any Lands, or to any other person to whom they may think notice ought to be given; and may by themselves, or by some Assistant Commissioner, hear and determine any objection which may be made by the person so next in remainder, reversion or expectancy.

142. Copies of Award to be made and deposited.

And be it Enacted, That Two copies of every confirmed award shall be made and sealed with the seal of the said Commissioners, and One such copy shall be deposited with the Clerk of the Peace of the county in which the Lands inclosed shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapelwardens for the time being of the parish in which the Lands or the greater part thereof shall be situated, to be kept by them and their successors in office, with the public books, writings and papers of the parish, or shall be deposited with such other fit persons as the Commissioners shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of *Two Shillings and Sixpence* for such inspection, and after the rate of *Three-pence* for every Seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any confirmed award, as shall be furnished by the Clerk of the Peace, shall be signed by the said Clerk of the Peace or his deputy, purporting the same to be a true

true copy ; and every such copy and extract so signed shall be received in evidence without further proof thereof; and every recital or statement in such confirmed award, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated.

143. Exchanges may be made of Land not subject to be inclosed.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of the persons interested, according to the definition hereinbefore contained, in Lands not subject to be inclosed under this Act, or in Lands subject to be inclosed under this Act as to which no proceedings for an Inclosure shall be pending, and who shall desire to effect an exchange of Lands in which they respectively shall be so interested, to direct inquiries whether such proposed exchange would be beneficial to the owners of such respective Lands ; and conducive to the more productive cultivation thereof respectively, and in case the Commissioners shall be of opinion that such exchange would be beneficial, and conducive to the more productive cultivation of the lands to be exchanged and that the terms of the proposed exchange are just and reasonable, they shall cause to be framed and confirmed, under the hands and seal of the Commissioners, an order of exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the Lands given and taken in exchange by each person so interested respectively, and a copy of such order, under the seal of the Commissioners, shall be delivered to each of the parties on whose application the exchange shall have been made ; and such order of exchange shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made ; and the Land taken upon every such exchange shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the Lands given on such exchange would have stood limited or been subject to in case such order had not been made ; and all expenses with reference to such order and exchange, or the inquiries in relation thereto, or to any proposed exchange, shall be borne by the persons on whose application such order shall have been made, or such inquiries undertaken : Provided always, That no exchange shall be made of any land held in right of any church or chapel, or other ecclesiastical benefice, without the consent, testified in writing, of the Bishop of the diocese in which such land shall be situate.

144. Division of intermixed Lands.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of any number of persons who shall be separately interested in parcels of Land not subject to be inclosed under this Act, or of Land subject to be inclosed under this Act as to which no proceedings for an Inclosure shall be pending, so intermixed or divided into parcels of inconvenient form or quantity that

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the same cannot be cultivated or occupied to the best advantage, but forming together a tract which may be divided into convenient parcels, and who shall desire to have the whole of such tract divided into convenient parcels to be allotted in lieu of the old parcels, to direct an inquiry whether such proposed division and allotment would be beneficial to the owners of such Lands, and conducive to the more productive cultivation thereof; and in case the Commissioners shall be of opinion that the proposed division and allotment would be beneficial, and conducive to the more productive cultivation thereof, they shall cause to be framed an order for the division or allotment thereof accordingly, with a map or plan thereunto annexed, in which shall be specified as well the parcels which the several persons, on whose application such order shall have been made, were respectively interested in before such division and allotment, as the several parcels allotted to them respectively by such order, and such order shall be confirmed under the hands and seal of the Commissioners; and a copy of such order, sealed with the seal of the Commissioners, shall be delivered to each of the parties on whose application the division and allotment shall have been made, and such order of division shall be good in the law to all intents and purposes whatsoever, and shall in no wise be liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the parcels of Land taken by the persons interested under such division shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the several Lands which the persons taking the same shall have relinquished or lost on such division would have stood limited to, for or upon, or been subject to in case such order had not been made; and all expenses with reference to any such order, division and allotment, or the inquiries in relation thereto, or to any proposed division or allotment, shall be borne by the persons on whose application such order shall have been made or such inquiries undertaken.

145. Inconvenient allotments for the poor and public purposes may be exchanged for land more convenient.

And be it Enacted, That where, under the powers of any Inclosure Act, any allotment shall have been made in trust for the poor inhabitants of any parish, or of any class of such poor inhabitants, or in trust to be leased, used or enjoyed, to or by or upon any other trusts, for the benefit of such poor inhabitants, or for the purposes of exercise and recreation, or for any other public or parochial purpose, and it shall appear to the Commissioners that such allotment, by reason of its distance from the dwellings of such poor inhabitants, or from the nature or quality of the soil or otherwise, shall not be convenient or suitable for the purposes for which the same shall have been made, it shall be lawful for the Commissioners, upon the application, in writing, of the churchwardens and overseers of the poor of the parish in which such

such allotment shall be situate, and of the person interested in land more convenient or suitable for the purposes for which such allotment shall have been made, and who may be willing to give such land in exchange for such allotment, in case the Commissioners shall be of opinion that such exchange would be beneficial to the poor inhabitants or other persons for whose benefit, or more suitable to the purposes for which, such allotment was made, to cause to be framed and to confirm an order of exchange of such allotment for such other land as aforesaid ; and the provisions herein contained concerning exchanges shall apply to such allotment as if such churchwardens and overseers were the persons interested in such allotment.

146. Expenses of Exchanges and Divisions.

And be it Enacted, That if any difference shall arise touching the said expenses in relation to any exchange, division, allotment, orders or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the Commissioners to certify under their hands and seal the amount to be paid by such person ; and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any *Two* Justices of the Peace for the county or other jurisdiction wherein the Land shall be situate, such Justices upon the non-payment thereof are hereby required by warrant under their hands and seals to cause the same to be levied by distress.

147. Commissioners may remedy defects and omissions of awards under Local Acts of Inclosure, or under 6 & 7 Will. 4, c. 115.

And be it Enacted, That where any award already made and executed, or hereafter to be made and executed in pursuance of any local Act of Inclosure, or in pursuance of an Act passed in the seventh year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales," shall not have duly distinguished the several tenures of all the Lands thereby awarded or allotted, or of any other Lands of which the tenure ought to have been distinguished in or by such award, or the different estates or titles for or under which any Lands therein mentioned should be held, or shall not have duly distinguished the Lands which, after such award, should remain subject to all or any tithes, and the Lands which should be discharged from all or any tithes, or where by any such award an aggregate allotment shall have been set out and awarded in any case in which several and distinct allotments ought to have been set out and awarded, in every such case, and in every other case in which it shall appear to the Commissioners that injustice or inconvenience shall have arisen from inaccuracy, confusion or omission in any such award, it shall be lawful for the Commissioners, upon the application in writing of any person interested in the Lands to which such award may relate, or of any person prejudiced by the inaccuracy, confusion or omission in such award, to make such inquiries and take such evidence by themselves

selves or by an Assistant Commissioner, as they shall think fit, and by an order under their hands and seal, to amend such award, and to distinguish the several tenures of the Lands thereby allotted and awarded, and the different estates or titles for or under which the same should be held, and to distinguish the Lands which should be discharged from all or any tithes, and the Lands which should remain subject to all or any tithes, and to subdivide aggregate allotments into separate allotments, and to distinguish the tenures or titles thereof, or the Lands or rights in respect of which they were respectively made, and generally to make or give such declarations or directions as may appear necessary to supply any omission and rectify any inaccuracy or confusion in such award; and such order of the Commissioners shall have the same force and effect as if the allotments, directions and declarations therein contained had been duly made and contained in the original award in addition, or as the case may require, in substitution for the parts thereof to which such amendments may relate, and all expenses with reference to such order as last aforesaid, and of all inquiries in relation thereto, or to any proposed amendment of any such award, shall be borne by the persons on whose application such order shall be made or such inquiries undertaken.

148. Commissioners may revive powers under local Inclosure Acts lost by lapse of time or otherwise.

And be it Enacted, That where under any Local Act of Inclosure, the powers and authorities originally vested in the Commissioner or Commissioners acting under any such Local Act, or any such power or authority shall not have been fully executed, according to the intent of such Local Act, and shall have been lost or become incapable of being executed by reason of the neglect or omission to execute the same, or to take some proceeding necessary to the due execution thereof within the time limited in that behalf by such Local Act, or from any other cause whatsoever, it shall be lawful for the Inclosure Commissioners for England and Wales, by any order under their hands and seal, to authorize the Commissioner or Commissioners appointed by or acting under the authority of such Local Act, to execute and to carry into effect the powers and authorities originally vested in such last-mentioned Commissioner or Commissioners, or in any previous Commissioner or Commissioners under such Local Act, in the same manner as if such powers and authorities had not been lost or become incapable of being executed, or as near thereto as lapse of time and other circumstances may permit, and subject to such conditions and restrictions as the justice of the case may appear to require, and in and by such order to direct any act or proceeding to be done or taken in substitution for any act or proceeding which shall have been required or directed by such Local Act, and which shall have become incapable of being done or taken, by lapse of time or other circumstances; and all proceedings, adjudications, orders, directions and acts taken, made and done by the Commissioner or Commissioners under any Local Act in pursuance of any such order as aforesaid of the Inclosure Commissioners

Commissioners for England and Wales, shall have the same force and effect as if the same had been duly authorized by such Local Act; and the expenses of such order, and of the inquiries in relation thereto, shall be paid by the Commissioner or Commissioners acting under such Local Act, and shall be deemed expenses under the Inclosure by such Local Act authorized.

149. Commissioners may appoint person to complete proceedings in an imperfect Inclosure.

And be it Enacted, That where the powers and authorities of any Local Act of Inclosure shall not have been fully executed and performed, whether the same shall or shall not have been lost or have become incapable of being executed from lapse of time or otherwise, and there shall be no Commissioner acting under such Local Inclorure Act, or in case from any other cause any of the persons interested in the Land to which such Local Act shall relate, shall be desirous that the powers and authorities of such Act should be executed, and the proceedings thereunder completed under the direction of the Inclosure Commissioners for England and Wales, it shall be lawful for the said Commissloners, by order under their hands and seal, upon the application in writing of the major part in value of the persons interested in the Lands subject to be inclosed under such Local Act, to appoint any person to execute the powers or authorities of such Local Act, in the place of the Commissioner or Commissioners by such Act appointed or authorized to be appointed, and to complete the proceedings under the same; and it shall be lawful for the said Inclosure Commissioners for England and Wales, by such order as aforesaid, or by any supplemental or other order, to authorize the person so appointed to execute and to carry into effect any powers or authorities originally vested in any Commissioner or Commissioners under such Local Act, and which may have been lost or become incapable of being executed, and to give such other directions in relation thereto as under the provision hereinbefore contained might have been given to the Commissioner or Commissioners appointed by or acting under a Local Act; and the person so appointed by the Commissioners shall and may complete the proceedings under such Local Act, and make an award therein, and shall have such and the like powers and authorities in all respects as the Commissioner or Commissioners originally appointed by or acting under such Local Act would have had, if he or they had continued to act; and it shall be lawful for the Inclosure Commissioners for England and Wales, by order under their hands and seal, to remove any person so appointed, and upon such removal, or in case any person so appointed shall die or desire to be discharged from his office, before the proceedings in such Inclosure shall be completed, from time to time to appoint any other person in his stead, with all such powers and authorities as aforesaid; and the expenses of such orders of the Commissioners, and of all proceedings in relation thereto, shall be expenses in the Inclosure, and raised in the same manner as other expenses may by such Local Act be authorized to be raised.

150. Commissioners may confirm awards or agreements made under supposed authority of 6 & 7 Will. 4, c. 115.

And be it Enacted, That where, by any award or agreement expressed to be made under the authority of the said Act of the seventh year of King WILLIAM the Fourth, intituled, "An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales," any moors, commons or waste Lands or other Lands not subject to be inclosed under the provisions of such last-mentioned Act shall have been inclosed or apportioned and allotted, and the Lands so inclosed or apportioned and allotted shall be within the definition of Lands subject to be inclosed under this Act, it shall be lawful for the Commissioners, upon the application of any person interested in any Land so inclosed or apportioned and allotted, to make such inquiries in relation to such award or agreement as the Commissioners shall think fit, and if it shall appear to the Commissioners that the rights and interests of all parties interested in the Lands expressed to be inclosed or apportioned and allotted by such award or agreement, shall have been duly provided for and compensated thereby, or might be duly provided for and compensated thereby, if such award or agreement were confirmed, or amended and confirmed as hereinafter mentioned, it shall be lawful for the Commissioners, by any order under their hands and seal, to confirm such award or agreement, or to amend the same, as the justice of the case and the rights and interests of the parties may appear to the Commissioners to require, and to confirm the same, with the amendments specified in such order, as the Commissioners shall think fit, and every award and agreement so confirmed shall, with the amendments, if any, which shall have been made by such order, have the same force and effect as a final award under the authority of this Act; and all expenses with reference to such order as last aforesaid, and of all inquiries in relation thereto, or to any proposed confirmation of any such award or agreement, shall be borne by the persons on whose application such order shall be made or such inquiries undertaken.

151. Penalties and Forfeitures, how recoverable.

And be it Enacted, That all penalties and forfeitures imposed by this Act, or which shall be imposed by the Commissioners or Assistant Commissioner acting in the matter of any Inclosure or other proceeding under or by virtue of the authority of this Act, shall be levied and recovered before any One Justice of the Peace for the county in which the Land subject to be inclosed, or to which such other proceeding shall relate, shall be situate, and not interested in the matter in question, for which purpose it shall be lawful for any such Justice of the Peace upon complaint made to him to summon the party accused, and the witnesses on both sides; and upon the appearance or contempt of the party accused, to examine such witnesses upon oath (which oath any such Justice is hereby empowered to administer), and upon such evidence to give judgment accordingly, and to condemn the party accused (proof of the accusation being made by One or more witness or witnesses as aforesaid)

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in such penalties and forfeitures as the offenders shall have incurred, and to levy such penalties and forfeitures by distress, together with reasonable costs; all which penalties and forfeitures, the application whereof is not particularly directed by this Act, shall and so soon as the same shall be levied, be paid and applied to and for such uses, intents or purposes as the Commissioners in and by any writing under their hands and seal shall order, direct or appoint.

152. Distress, how to be made.

And be it Enacted, That when in this Act any sum of money, whether in the nature of penalty or otherwise, shall be directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the surplus monies arising from such sale, after satisfying such sum of money, and the costs and expenses attending the distress and sale, shall, on demand, be rendered to the party whose goods and chattels shall have been distrained.

153. Distress not unlawful for informality.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser, ab initio, on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

154. Notices, how given.

And be it Enacted, That all notices by this Act directed to be given by advertisement shall be given by an advertisement to be inserted in some newspaper or newspapers printed or usually circulated in the county in which the Land subject to be inclosed, or other Land to which such notice shall relate shall be situate, and all notices directed to be given on the church-door shall be by writing, under the hand of the party giving such notice, to be affixed on the principal outer door of the church of the parish, or if there shall be no church, then in some conspicuous place in the parish in which the Land subject to be inclosed or other land to which such notice shall relate or some part thereof shall be situate, on Sunday before divine service; and all notices necessary to be given by the Commissioners or any Assistant Commissioner or valuer acting in the matter of any Inclosure (the mode of giving which is not hereby particularly directed) shall be by either or both of the methods aforesaid as the Commissioners or Assistant Commissioner or valuer respectively shall think fit; and all notices so given shall be deemed sufficient notices to all persons concerning all matters and things to which such respective notices shall relate.

155. Advertisements and Awards free of duty.

And be it Enacted, That no advertisement inserted by direction of the Commissioners or any Assistant Commissioner acting in the matter

matter of any Inclosure, in the London Gazette or in any newspaper for the purpose of carrying into effect any provision of this Act, and no agreement, award, bond or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty.

156. Persons giving false evidence, &c., to be guilty of a Misdemeanor.

And be it Enacted, That if any person under the provisions of this Act shall wilfully give false evidence, or shall make or subscribe a false declaration for the purposes of this Act, or shall wilfully refuse to attend, in obedience to any lawful summons of the Commissioners or an Assistant Commissioner or Valuer, or to give evidence, or shall wilfully alter, withhold, destroy or refuse to produce any book, court-roll or writing, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the Commissioners or Assistant Commissioner or Valuer, he shall be deemed guilty of a *Misdemeanor*.

157. Limitation of actions.

And be it Enacted, That no action or suit shall be commenced against any Commissioner, Assistant Commissioner, Justice of the Peace, Valuer, or other person, for any thing done under the authority of this Act, until *Twenty-one* Days' notice thereof shall have been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after *Three* calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action shall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before *Twenty-one* Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the Jury shall find a verdict for the defendant therein; or the Court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall have costs, charges and expenses as between attorney and client.

158. Proceedings not to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the Commissioners or any Assistant Commissioner

missioner under the authority of this Act, except as hereinbefore provided, or any proceeding to be had, touching any offender against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process, into any of Her Majesty's Courts of Record at Westminster or elsewhere.

159. Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "person," shall mean and include the Queen's Majesty, and any body corporate, aggregate or sole, as well as an individual; any word importing the singular number only, shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; any word importing the masculine gender only, shall mean and include a female as well as a male; the word "Land," shall mean and include all messuages, lands and corporeal tenements and hereditaments; the word "county" shall include any riding or other like division of a county, and any liberty, city or place having a separate commission of the peace; the word "parish" shall include any township or vill, or extra-parochial district or place; the word "church" shall mean and include any chapel where there is no church; the word "school-house" shall mean any parochial or charitable school-house; the words "the Commissioners" shall mean the Inclosure Commissioners for England and Wales; and the words "Assistant Commissioner" shall mean the Assistant Commissioner appointed by the Inclosure Commissioners.

160. Act to extend only to England and Wales.

And be it Enacted, That this Act shall extend only to England and Wales.

161. May be amended in present Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session.

THE SCHEDULE

To which this ACT refers.

FORM of Conveyance by Commissioners [in the matter of the Inclosure.]

We, the Inclosure Commissioners for England and Wales, by virtue of an Act of Parliament passed in the year of the reign of Queen Victoria, intituled [here insert the title of this Act], and in consideration of the sum of paid into our hands by being the purchase-money of the hereditaments hereinafter described, do by these presents convey unto his heirs and assigns, all that [here describe the premises], with the appurtenances; to hold the same unto the said his heirs and assigns [here state the uses, trusts or purposes of the conveyance, as the case may require.] In witness whereof we have hereunto affixed our seal this day of

---

FORM of Summons.

To of in the County of Field Reeve of

To wit. } I, Esquire, one of Her Majesty's Justices of the Peace in and for the said County of do hereby summon you personally to be and appear before such Two of Her Majesty's Justices of the Peace as shall be present at in the said County, on the day of next, at the hour of in the noon of the same day, to answer the complaint of A. B., that [he is refused reasonable compensation for diminution of his right of pasture in the regulated pasture in], or [that the said A. B. is charged with an excessive payment for increase of his right of pasture in the regulated pasture of], otherwise the complaint will be proceeded with as if you had appeared. Given under my hand and seal this day of in the year

---

FORM

FORM of ORDER.

To wit. } The Order of and Esquires, Two of Her Majesty's Justices of the Peace in and for the said County, made at in the said County of the day of in the year

WHEREAS complaint hath been made to us by A. B. for that he [state the complaint as in the summons]. We do declare, that [the yearly sum of is a reasonable compensation for the diminution of the right of pasture of the said A. B.] or [the yearly sum of is a reasonable payment for increase of the right of pasture of the said A. B.] And do order that such yearly sum be paid according to the directions of the statute in that behalf. Given under our hands and seals this day of in the year

A

B I L L

To facilitate the Inclosure and Improvemer of Commons and Lands held in common the Exchange of Lands, and the Divisio of intermixed Lands; to provide Remedie for defective or incomplete Executions, an for the Non-execution of the Powers c General and Local Inclosure Acts, and t provide for the Revival of such Powers i certain cases.

(*Prepared and brought in by*
The Earl of Lincoln and Lord Granville Somerset.)

Ordered, by The House of Commons, *to be Printed,*
5 *May* 1845.

[*Price* 10*d.*]

275.

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COMMONS INCLOSURE BILL.

[AS AMENDED BY THE COMMITTEE, AND ON REPORT.]

Arrangement and List of Clauses.

The Clauses from 1 to 10 inclusive relate to the constitution of the Commission, the provisions for Annual and Special Reports, and its general powers.

1. Appointment of Commissioners.
2. Chairman of Commissioners. Style of Commissioners. To have a common seal.
3. Commissioners to make annual Reports.
4. Power to appoint and remove Assistant Commissioners, &c.
5. Appointments under this Act limited to Five Years.
6. Salaries and Allowances.
7. Allowances and Salaries to be paid out of the Consolidated Fund.
8. Commissioners and Assistant Commissioners to make a Declaration.
9. Documents of the Tithe Commission may be used. Power to summon Witnesses.
10. Commissioners may delegate powers to Assistant Commissioners.

Clauses 11 to 14.—The descriptions of Land subject to Inclosure under the Act, and those wholly exempted from its operation, and those in relation to which the special authority of Parliament will be required.

11. Descriptions of Land subject to be inclosed under this Act.
12. Wastes of Manors and Lands subject to indefinite common rights at all times, not to be inclosed without previous direction of Parliament.
13. Land within certain distances of large towns not to be inclosed without the previous direction of Parliament.
14. Village Greens not to be inclosed, but provision may be made for preserving the surface and fixing boundaries.

Clauses 15 to 23.—Show the persons whose consents and dissents are to be regarded in all proposed Inclosures, and the manner in which their proportional interests are to be estimated for the purposes of consents, dissents and applications.

15. Persons interested in Lands for purposes of applications, &c.
16. Where the Crown is interested, who shall be substituted.
17. Where the Duke of Cornwall is interested, who shall be substituted.
18. Provision for persons jointly interested.
19. In case of disability, Commissioners to name substitutes.
20. Attornies may be appointed by persons interested.
21. Proportional Interests, how estimated.
22. Power to equalize Assessments for estimating proportional value.
23. Proportional Interests of Lords of Manors.

Clauses 24 to 31.—Form of Application to the Commissioners; their proceedings upon Applications; the conditions which may be prescribed by them, and the consents to be required.

24. Commissioners to frame Forms of Applications, &c.
25. Upon application to the Commissioners, an Assistant Commissioner to inquire into expediency of proposed Inclosure.
26. Assistant Commissioner to report on application.
27. Commissioners to embody the conditions of proposed Inclosure in a provisional order, and to take consents of parties interested.
28. Separate applications for separate Tracts.
29. Consent of the Lord of the Manor.
30. Allotments for exercise and recreation may be required as conditions of Inclosures.
31. Allotments for labouring poor may be required as conditions of Inclosures.

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CLAUSE 32—Provides that the Acts founded on the Commissioners' Reports shall not be considered private Acts.

32. Acts for the Inclosure of Lands in pursuance of the Reports of the Commissioners to be deemed Public General Acts.

CLAUSES 33 to 37—Relate to the appointment of the Valuer by whom the details of the Inclosure are to be settled, and to the instructions which the Owners, or on their default the Commissioners, may give him for his guidance.

33. Meeting for appointing Valuer.
34. Instructions to Valuer.
35. Valuer may be assisted by an Assistant Commissioner.
36. A Surveyor may be appointed where the parties interested think fit.
37. Form of Declaration by Valuer.

CLAUSES 38 to 44—Relate to the Settlement of Boundaries.

38. Power to set out Boundaries of Parishes. Appeal on questions of Boundary.
39. Non-attendance of Jurymen.
40. Juries to be subject to regulations concerning Juries returned to try issues in Courts of Record at Westminster.
41. Costs of Appeal.
42. Security for Costs to be taken by the Commissioners.
43. Persons dissatisfied with determination of Commissioners, may appeal to Court of Queen's Bench.
44. Power to straighten Boundaries.

CLAUSES 45 to 53.—The proceedings of the Valuer in adjudicating on Claims.

45. Valuer to hold Meetings.
46. Claims to be delivered in writing.
47. Statement of Claims to be deposited for examination. Claims to be heard and determined by Valuer, subject to appeal to the Commissioners.
48. Titles not to be determined by Valuers, Commissioners or Assistant Commissioners.
49. Provisions for Encroachments within 20 years.
50. School-houses, &c. not to be deemed encroachments.
51. Encroachments of 20 years' standing to be deemed ancient Inclosures.
52. Rights in respect of Tofts to be allowed.
53. Rights not sustainable at law to be allowed upon proof of 60 years' usage.

CLAUSES 54 to 59—Provision for revision of the Proceedings of the Valuer, and Appeals by unsatisfied claimants.

54. Schedule of Claims allowed by Valuer to be made and deposited. Claims may be reheard by Commissioners or an Assistant Commissioner.
55. Appeal against the determination of the Commissioners.
56. Determination of Commissioners not appealed against conclusive.
57. Actions not to abate.
58. Commissioners may award Costs.
59. Differences may be submitted to Arbitration.

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60. Power to Valuer to make Watercourses, &c.
61. Power to alter Roads and Ways.
62. Appeal to Quarter Sessions.
63. Trial of Appeal.
64. Roads to be fenced.
65. Expenses of making and altering Roads.
66. Roads to be repaired by the Parish after certificate by Valuer.
67. Private Roads.
68. Rights of Common may be suspended.
69. Course of husbandry may be directed.
70. Compensation for growing crops.

Clauses 71 to 74.—Directions for Allotments, for repair of Roads, for Exercise, and for other public purposes, and for the Labouring Poor.

71. Allotment for repair of Roads.
72. Allotment for public purposes.
73. Provision for awarding Allotment for exercise, &c. to individuals, subject to the obligation of permitting it to be used.
74. Allotments for the labouring poor may be made, subject to a Corn rent-charge, to vary and be recoverable as a Tithe rent charge.

Clauses 75 to 85.—Allotments to the Lord of the Manor and to the Commoners, with provision for the allotment of old Inclosures with consent.

75. Allotment to the Lord.
76. Allotment of residue.
77. The Rent-charges payable out of Allotments for the Labouring Poor to be allotted to persons entitled under the Inclosure.
78. Separate Allotments to be made in respect of separate Titles.
79. Several Allotments may by consent be laid together.
80. Cultivated Land and Buildings to be allotted to the Proprietor.
81. Regard to be had to the situation of Homesteads.
82. Allotments to be fenced.
83. Allotments may be made to Purchasers.
84. Allotments to be made to Representatives of party dying.
85. Old Inclosures may be allotted with consent.

Clauses 86 to 88.—Special provision for the case of Freemen and others entitled, not individually but as classes.

86. Allotments to Freemen and other classes of persons entitled to common rights.
87. Power to sell such Allotments.
88. Meeting of persons entitled for giving instructions to Valuer.

Clauses 89 to 91.—Powers of Partition and Exchange in the Inclosure.

89. Partitions may be made.
90. Costs of Partition.
91. Exchanges.

Clauses 92 to 94.—Provide that the Allotment shall follow the Title of the Right for which it is made, except where Rack-rent Leases are avoided.

92. Wills and Settlements not to be affected.
93. Tenure of the Allotments.
94. Lease at Rack-rent may be avoided.

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95. Seignories not affected, except with consent.
96. Minerals under regulated Pastures may be reserved, while minerals under Lands to be held in severalty are relinquished.
97. Right to Minerals under Land inclosed existing distinct from the Property in the surface, and not compensated upon Inclosure, not affected.

Clauses 98, 99.—Trees and protection of Fences.

98. Trees to be allotted with the Land.
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Clauses 100 to 105.—Provisions for the Report of the Valuer of his Acts and Allotments, and for its revision by the Commissioners, and for the execution and approval by the Commissioners of the Award, and for its finality.

100. Alteration may be made in Allotments.
101. Report of the Valuer.
102. Deposit of Report.
103. Award.
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105. Allotments to be in Compensation of previous Rights.

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Clauses 112 to 121.—Provisions for the regulation and enjoyment of common or stinted Pastures not divided or allotted in severalty.

112. Regulated Pastures may be set out.
113. Conversion into regulated Pasture to be deemed an Inclosure.
114. Rule of Rating to be established.
115. Property of the Soil of regulated Pastures.
116. Election of Field Reeves.
117. Duties of Field Reeves.
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119. Expenses to be raised by Rate.
120. Power to apply the Act to Pastures already stinted.
121. Expenses of application of Act to Pastures already stinted.

Clauses 122 to 141.—Power to make Surveys to raise Expenses and other special powers.

122. Power to enter Land for Surveys, &c.
123. Expenses of Inclosures.
124. Remedies in case of nonpayment of Expenses.
125. Power to make additional Rate.
126. Commissioners may remove Valuers.

Clause No. 1. Valuer not to purchase Lands in the parish for Seven Years after the Award.

127. Repayment to Consolidated Fund.
128. Persons attending meetings to pay their own Expenses.
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131. Power to sell parts of Allotments.
132. Sales of parts of Allotments how to be made.
133. Commissioners to receive and apply Purchase Money.
134. Application of Compensation Money of parties under disabilities.
135. Investment of surplus when 200 *l.* or upwards.
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140. Conveyances to be made by Commissioners.
141. Application of Purchase Monies.

Clause 142.—Power, under certain restrictions, to cause the Land to be sold instead of being allotted.

142. Power to sell instead of allotting Land.

Clause 143.—Provision for Special Notice to Reversioners and others (whose consent is not in every case required) where the Commissioners see occasion.

143. Notice may be given to Reversioners.

Clause 144.—The custody of the Award copies how to be furnished.

144. Copies of Award to be made and deposited.

CLAUSES 145 to 149.—Provide for Exchanges and Divisions of intermixed Land in cases where an Inclosure is not in progress.

145. Exchanges may be made of Land not subject to be inclosed.
146. Division of intermixed Lands.
147. Inconvenient Allotments for the Poor and public purposes may be exchanged for Land more convenient.
148. Notices of Exchanges and Divisions to be given.
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CLAUSES 150 to 154.—Remedies for defective Awards and completion of Inclosures left unfinished under former Act.

150. Commissioners may remedy defects and omissions of Awards under local Acts of Inclosure, or under 6 & 7 Will. 4, c. 115.
151. Commissioners may revive powers under Local Inclosure Acts lost by lapse of time or otherwise.
152. Commissioners may appoint a person to complete proceedings in an imperfect Inclosure.
153. Commissioner to give notice before proceeding to assess Awards under local Act.
154. Commissioners may confirm Awards or Agreements made under supposed authority of 6 & 7 Will. 4, c. 115.

CLAUSE No. 2.—Power to reduce the number of Trustees under local Act where a sufficient number of persons qualified cannot be found.

CLAUSES 155 to 165.—Recovery of Penalties and other usual Clauses.

155. Penalties and Forfeitures, how recoverable.
156. Distress, how to be made.
157. Distress not unlawful for informality.
158. Notices, how given.
159. Advertisements and Awards free of Duty.
160. Persons giving false evidence, &c. guilty of a Misdemeanor.
161. Limitation of Actions.
162. Proceedings not to be removed by Certiorari.
163. Interpretation Clause.
164. Act to extend only to England and Wales.
165. May be amended in present Session.

A

B I L L

[AS AMENDED BY THE COMMITTEE, AND ON REPORT]

To facilitate the Inclosure and Improvement of Commons and Lands held in common; the Exchange of Lands, and the Division of intermixed Lands; to provide Remedies for defective or incomplete Executions, and for the Non-execution of the Powers of General and Local Inclosure Acts, and to provide for the Revival of such Powers in certain cases.

[N. B.—*The Clauses marked* (A.) *to* (F.) *were added by the Committee, and the Clauses* No. 1. *and* No. 2. *were added on the Report.*]

WHEREAS it is expedient to facilitate the Inclosure and Improvement of Commons and other Lands now subject to rights of property which obstruct cultivation and the productive employment of labour, and to facilitate such exchanges of Lands and such divisions of Lands intermixed or divided into inconvenient parcels, as may be beneficial to the respective owners, and it is also expedient to provide remedies for the defective or incomplete execution, and for the non-execution of powers created by General and Local Acts of Inclosure, and to authorize the revival of such powers in certain cases; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for one of Her Majesty's Principal Secretaries of State to appoint any Two fit persons to be Commissioners under this Act, and at pleasure to remove the Commissioners so appointed, or either of them; and upon every vacancy in the office of such Commissioner some other fit person shall be appointed to such office in like manner; and the Commissioners so to be appointed shall, with the First Commissioner of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, be the Commissioners for carrying this Act into execution; and during any vacancy in the office of Commissioner under this Act, it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

Preamble.

1. Appointment of Commissioners.

2. Chairman of Commissioners.

And be it Enacted, That the said First Commissioner of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being shall be the Chairman of the Commissioners acting in the execution of this Act; and such Commissioners shall be styled "The Inclosure Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any Two of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the Commissioners shall cause to be made a seal of the said Board, and shall cause to be sealed therewith all awards and orders made or confirmed by the Commissioners in pursuance of this Act; and all such awards and orders and other instruments proceeding from the said Board, or copies thereof purporting to be sealed with the seal of the said Board, shall be received in evidence without any further proof thereof; and no award or order of the Commissioners under the authority of this Act, shall be of any force unless the same shall be sealed as aforesaid.

Style of Commissioners.

To have a Common Seal.

3. Commissioners to make annual Reports.

And be it Enacted, That the Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings as such Principal Secretary of State shall require, and shall, in the month of January in every year, send to one of the Principal Secretaries of State a general report of their proceedings, specifying the applications which may have been made to them under the provisions of this Act, and the several cases in which they shall have authorized Inclosures, and the grounds on which they may have withheld their consent to such application, and also the cases in which they shall be of opinion that proposed Inclosures which may not be made without the direction of Parliament would be expedient, and such report shall separately distinguish all such proposed Inclosures as relate to Lands situate within Fifteen Miles of the city of London, and within such respective distances of other cities or towns as hereinafter mentioned, and shall state in each such case the special grounds on which they shall be of opinion that such Inclosure shall be expedient, and as well in the cases in which they shall have authorized Inclosures as in the other cases aforesaid, such report shall state the extent of the Land authorized and proposed to be inclosed, with such other particulars as hereinafter directed; and such report shall also specify the progress which shall have been made in Inclosures which the Commissioners may have authorized, and in the Inclosures which Parliament may have directed to be proceeded with; and every such report shall be laid before both Houses of Parliament within Six Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting of Parliament; and such Commissioners

may

may from time to time send to one of the Principal Secretaries of State such special reports in relation to all or any of the matters aforesaid as they may think fit.

4. Power to appoint and remove Assistant Commissioners, &c.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to appoint a sufficient number of persons to be Assistant Commissioners, and also a Secretary, and such Clerks, Messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, Secretary, Clerks, Messengers and officers, or any of them; and on any vacancy in any of the said offices, to appoint some other person to the vacant office, and the persons so appointed shall assist in carrying this Act into execution, at such places and in such manner as the Commissioners may direct: Provided always, That no such appointment shall be made by the Commissioners unless the Lord High Treasurer or any Three or more of the Commissioners of Her Majesty's Treasury shall in the case of each such appointment consent thereto.

5. Appointments under this Act limited to Five Years.

And be it Enacted, That no Commissioner or Assistant Commissioner, Secretary or other officer, or person so to be appointed, shall hold his office for a longer period than Five Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Five Years and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

6. Salaries and Allowances.

And be it Enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of Her Majesty's Treasury to direct a salary, not exceeding One thousand Five hundred Pounds by the year, to be paid to one of the Commissioners for the time being appointed under this Act, but, except as aforesaid, no salaries shall be paid to the Commissioners in respect of their appointments under this Act, and the allowances to the Assistant Commissioners, and the salaries of the Secretary, Clerks, Messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury, or any Three of them: Provided always, That the allowance to an Assistant Commissioner shall not exceed the sum of Three Pounds Three Shillings for every day he shall be actually employed or travelling in the performance of the duties of his office: Provided also, That the said Lord High Treasurer or Commissioners may allow to any Commissioner, Assistant Commissioner, Secretary, Clerk, Messenger or other officer, such reasonable travelling and other expenses as may be incurred by him in the performance of his duties under this Act, in addition to his salary or allowance (if any) respectively.

7.
CLAUSE (A.) Allowances and Salaries to be paid out of the Consoliadted Fund.

And be it Enacted, That the allowances and salaries of such Commissioner, Assistant Commissioners, Secretary, Clerks, Messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into execution not herein otherwise provided for, shall be paid by the Lord Treasurer, or the Commissioners of Her Majesty's Treasury, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

8.
Commissioners and Assistant Commissioners to make a Declaration.

And be it Enacted, That every Commissioner shall, before he shall enter upon the execution of his office, make the following declaration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

> "I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act]:"

And every Assistant Commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner,") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

9.
Documents of the Tithe Commissioners may be used. Power to summon Witnesses.

And be it Enacted, That all awards, apportionments, agreements, writings and maps in the custody of the Tithe Commissioners for England and Wales shall be open to the use and inspection of the Inclosure Commissioners for England and Wales, or any person by them authorized, and such copies of or extracts from such awards, apportionments, agreements, writings and maps as the Commissioners shall require, shall be furnished to them for the purposes of this Act; and that the Commissioners or any Assistant Commissioner, may, by summons under the seal of the Commission, or under the hands of such Assistant Commissioner, require the attendance of all such persons as they or he may think fit to examine upon any matter relating to any Inclosure or proposed Inclosure, or other proceeding under the authority of this Act; and also make any inquiries and call for any answer or return as to any such matter; and also administer or receive declarations, and examine all such persons upon declaration,

declaration, and cause to be produced before them or him, upon declaration, all court-rolls and all rate-books, instruments of tithe apportionment and other public writings, maps, plans and surveys of or belonging to any parish, or copies thereof respectively in anywise relating to any such matter; and the Commissioners may, when they shall think fit, by summons, under the seal of the Commission, require the attendance before any Valuer, acting in the matter of an Inclosure under this Act, of all such persons as the Valuer may certify to the Commissioners as persons whose testimony may be necessary for the matter of such Inclosure, and cause to be produced before such Valuer, upon declaration, all such court-rolls, rate-books, public writings, maps, plans and surveys, or copies thereof, as aforesaid, and every Valuer acting in the matter of an Inclosure under this Act may also administer or receive declarations, and examine upon declaration, all such persons as shall attend before him under such summons of the Commissioners, and all such persons as may voluntarily attend before him as witnesses in such matter: Provided always, That no such person shall be required to attend in obedience to any such summons, unless the reasonable charges of his attendance shall have been paid or tendered to him; and no such person shall be required in any case, in obedience to any such summons, to travel more than Ten Miles from the place of his abode.

10. Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners, or to any One or more of them, such of the powers hereby given to the Commissioners as the Commissioners shall think fit (except the power to confirm awards, or to do any act herein required to be done under the seal of the Commissioners), and the power so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner in pursuance of such delegated power shall be obeyed by all persons as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Descriptions of Land subject to be inclosed under this Act.

And be it Enacted, That all such Lands as are hereinafter mentioned; (that is to say) all Lands subject to any rights of Common whatsoever, and whether such rights may be exercised or enjoyed at all times, or may be exercised or enjoyed only during limited times, seasons or periods, or be subject to any suspension or restriction whatsoever in respect of the time of the enjoyment thereof, all gated and stinted Pastures in which the property of the soil or of some part thereof is in the owners of the cattle-gates or other gates or stints, or any of them, and also all gated and stinted Pastures in

which no part of the property of the soil is in the owners of the cattle-gates or other gates or stints, or any of them, all Land held, occupied or used in common, either at all times, or during any time or season, or periodically, and either for all purposes or for any limited purpose, and whether the separate parcels of the several owners of the soil shall or shall not be known by metes or bounds or otherwise distinguishable; all Land in which the property or right of or to the vesture or herbage or any part thereof during the whole or any part of the year, or the property or right of or to the wood or underwood growing and to grow thereon, is separated from the property of the soil; and all lot Meadows and other Lands, the occupation or enjoyment of the separate lots or parcels of which is subject to interchange among the respective owners in any known course of rotation or otherwise, shall be Land subject to be inclosed under this Act.

12. Wastes of Manors and Lands subject to indefinite common rights at all times not to be inclosed without previous direction of Parliament.

Provided always, and be it Enacted, That no Waste Land of any Manor on which the tenants of such manor have rights of common, nor any Land whatsoever subject to rights of common which may be exercised at all times of every year for cattle levant and couchant upon other Land, or to any rights of common which may be exercised at all times of every year, and which shall not be limited by number or stints, shall be inclosed under this Act without the previous authority of Parliament in each particular case, as hereinafter provided; and no Royal Forest, nor any part thereof, shall be deemed Land subject to be inclosed under this Act: Provided also, That neither this Act, nor any thing which may be done under or by virtue thereof, shall authorize to be made, or legalize where made, any embankment, erection or encroachment which may have been for any period whatever or which may hereafter be made without the consent of the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland in or upon the shore of any harbour, or the bank of any navigable river, so far as the tide flows up the same, or shall give to or confer upon any person whatsoever any right, title, estate or interest whatsoever in any lands or soil whereon the tide of the sea flows and re-flows.

13. Land within certain distances of large towns not to be inclosed without the previous direction of Parliament.

Provided also, and be it Enacted, That no Land situate within Fifteen Miles of the city of London or within Two Miles of any city or town of Ten thousand inhabitants, or within Two Miles and a Half of any city or town of Twenty thousand inhabitants, or within Three Miles of any city or town of Thirty thousand inhabitants, or within Three Miles and a Half of any city or town of Seventy thousand inhabitants, or within Four Miles of any city or town of One hundred thousand inhabitants, shall be subject to be inclosed under the provisions of this Act, without the previous authority of Parliament in each particular case, as hereinafter provided, and in all such cases the number of inhabitants shall be ascertained by the then last Parliamentary Census thereof,

thereof, and that the distance shall be measured in a direct line from the town-hall, if there shall be any town-hall, or if there shall be no town-hall, then from the cathedral or church if there shall be only one church, or if there shall be more churches than one, then from the principal market-place of any such city or town.

14. Village greens not to be inclosed, but provision may be made for preserving the surface and fixing boundaries.

And be it Enacted, That no town green or village green shall be subject to be inclosed under this Act, provided that in every case in which an inclosure of Lands in the parish in which such town green or village green may be situate shall be made under the authority of this Act, it shall be lawful for the Commissioners, instead of requiring that other Land be allotted for the purposes of exercise and recreation under the provisions hereinafter contained, to direct that such town green or village green, provided such green be of equal or greter extent, be allotted to the Churchwardens and Overseers of the Poor of such parish, in trust to allow the same to be used for the purposes of exercise and recreation, and the same shall be allotted and awarded accordingly, in like manner and with the like provisions for making or maintaining the fences thereof, and preserving the surface thereof, and draining and levelling the same where occasion shall require as hereinafter directed, concerning the allotments to be made for the purpose of exercise and recreation; and in every case in which such town green or village green shall adjoin Land subject to be inclosed under this Act, and shall not be separated from such Land by fences or known bounds, the Commissioners shall in the provisional order concerning such Inclosure set out a boundary line between such green and the adjoining Land, and shall in their annual general report mention and describe such boundary.

15. Persons interested in Lands for purposes of applications, &c.

And be it Enacted, That for the purposes of this Act, the persons interested in Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall be deemed to be the persons hereinafter mentioned, and no others; (that is to say) the persons who shall be in the actual possession or enjoyment or receipt of the rents and profits of any such Land or any part thereof, or any Common or common right thereon, or any Manor of which such Land or any part thereof shall be waste, (except any tenant for life or lives or for years holding under a lease or agreement for a lease on which a rent of not less than Two-thirds of the clear yearly value of the premises comprised therein shall have been reserved, and except any tenant for years whatsoever holding under a lease or agreement for a lease for a term which shall not have exceeded Fourteen Years from the commencement thereof, and except any tenant from year to year at will or sufferance,) and that without regard to the real amount of interest of such persons; and in every case in which any such Land, Common or common right or Manor shall have been

been leased or agreed to be leased to any person or persons for life or lives or for years by any lease or agreement for a lease on which a rent of not less than Two-thirds of the clear yearly value of the premises comprised therein shall have been reserved; and in every case in which any such Land, Common or common right or Manor shall be in the possession of a tenant from year to year at will or sufferance, or shall have been leased or agreed to be leased for a term which shall not have exceeded Fourteen Years from the commencement thereof, the person who shall for the time being be entitled to the said Land, Common or common right or Manor in reversion immediately expectant on the term created or agreed to be created by such lease or agreement for a lease respectively, or subject to the tenancy from year to year at will or sufferance, shall be deemed for the purposes of this Act to be the person interested as aforesaid in respect of such Land, Common or common right or Manor; and in every case in which any such Land, Common or common right or Manor as aforesaid shall have been leased or agreed to be leased to any person for life or lives or for years by any lease or agreement for a lease, in which a rent less than Two-thirds of the clear yearly value of the premises comprised therein shall have been reserved, and of which the term shall have exceeded Fourteen Years from the commencement thereof, the person who shall for the time being be in the actual receipt of the rent reserved upon such lease or agreement for a lease, shall, jointly, with the person who shall be liable to the payment of such rent of such Land, Common or common right or Manor be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively; and in every case in which any person shall be in possession or enjoyment or receipt of the rents or profits of any such Land, Common or common right or Manor under any sequestration, extent, elegit or other writ of execution, or as a receiver under any order of a Court of Equity, the person who, but for such writ or order, would have been in possession, enjoyment or receipt of the rents and profits shall, jointly with the person in possession, enjoyment or receipt, by virtue of such writ or order, be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively: Provided always, That it shall be lawful for the Commissioners, if they shall think fit, in any case, on the application of any tenants or lessees within the exception hereinbefore contained, or other persons not included within the definition hereinbefore contained, of the persons interested in Land for the purposes of this Act, but who may appear to the Commissioners to have estates or rights in the land to be inclosed, or otherwise subject or to become subject to the provisions of this Act, which may be prejudiced by any Inclosure or other proceeding hereby authorized in relation to such Land, to admit the persons so applying to vote and act under this Act as persons interested in such land,

land, in such and the same manner as if such persons were tenants in common of the same Land with the persons who but for this provision would exclusively have been deemed interested therein, and in such shares as the Commissioners having reference to the value of such estates or rights shall direct, and such persons respectively may vote accordingly as tenants in common under the provision hereinafter contained.

16. Where the Crown is interested, who shall be substituted.

And be it Enacted, That whenever Her Majesty shall be interested in Land as aforesaid, the First Commissioner of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, or in case Her Majesty shall be so interested in right of the Duchy of Lancaster, the Chancellor of the Duchy of Lancaster shall for the purposes of this Act, and to the extent of such respective interest, be substituted for the person interested as aforesaid.

17. Where Duke of Cornwall is interested, who shall be substituted.

And be it Enacted, That whenever the Duke of Cornwall shall be interested in Land as aforesaid, the Lord Warden of the Stannaries shall for the purposes of this Act, and to the extent of such interest, be substituted instead of the person interested as aforesaid.

18. Provision for persons jointly interested.

And be it Enacted, That whenever an interest in Land, according to the provisions of this Act, shall be vested in several persons as co-trustees or in joint tenancy, such persons shall for the purposes of this Act be considered as jointly interested and entitled to one vote only in respect of their joint interest, but any One or more of such persons may, unless the other or others of them shall dissent therefrom, act or vote under this Act, and the majority in number of any such persons may, notwithstanding any dissent of the minority, act or vote under this Act in the same manner as if all such persons had concurred; and whenever several persons as tenants in coparcenary or in common shall be so interested, each coparcener or tenant in common shall for the purposes of this Act, and to the extent of the value of his respective undivided share, be deemed separately interested and entitled to vote as if he were tenant in severalty.

19. In case of disability Commissioners to name substitutes.

And be it Enacted, That whenever any person interested in Land as aforesaid shall be an infant, lunatic, idiot, feme covert, or under any other legal disability, or beyond the seas, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners, and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act be substituted in the place of such person so interested.

20. Attornies may be appointed by persons interested.

And be it Enacted, That it shall be lawful for any person interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, by a Power of Attorney, given in writing under his hand, to appoint an agent to act for him for the purposes of this Act; and all things which by this Act are directed to be done by or with relation to any such person may be lawfully done by or with relation to the agent so duly authorized of such person; and every such agent shall have full power, in the name and on behalf of his principal, to sign, concur in and execute any application, or act, to signify consent or dissent, and to vote on any question arising out of the execution of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the Power of Attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be deposited in the office of the Commissioners; and any such Power of Attorney may be in the form following:

Form of Power.

"I, of
do hereby appoint of
to be my Attorney for all the purposes of an Act passed in the years of Her present Majesty, intituled, ."

21. Proportional interests, how estimated.

Provided always, and be it Enacted, That the proportional value of the respective interests of the several persons interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall, so far as relates to the power to sign any application, or to give any notice or consent, or to vote at any meeting under this Act, be estimated as hereinafter mentioned; (that is to say) where their interests shall be in respect of Land or other rateable property, then according to the proportional sums at which such Land or rateable property shall be rated to the relief of the poor; and when their interests shall be in respect of rights of Common enjoyed or claimed in respect of any Land, and not defined by numbers or stints, then according to the proportional sum at which the Land in respect of which they enjoy or claim such rights of Common shall be rated to the relief of the poor; and in case such interests shall be in respect of rights in a gated or stinted pasture, or of other rights defined by numbers or stints, then according to the proportional amount of their respective numbers or stints; but in case such interests shall be in respect of rights of Common in gross not rated to the relief of the poor, and not defined by numbers or stints, or in case, from any other cause, it shall appear to the Commissioners, or to the Assistant Commissioner presiding at any meeting, held for the purposes of this Act, impracticable or inequitable to estimate such proportional value

value in manner aforesaid, it shall be lawful for the Commissioners or such Assistant Commissioner to direct in what manner such proportional value shall be estimated, regard being had to the circumstances of each particular case.

22. Power to equalize Assessments for estimating proportional value.

Provided also, and be it Enacted, That in case the Land subject to be inclosed under this Act, or the Lands or tenements in respect of which rights of Common therein may be claimed shall be situate in more than one parish, and it shall appear to the Commissioners that the assessments to the poor-rate of the respective parishes in which such Land is situate are calculated upon different principles, it shall be lawful for the Commissioners, on the application of any persons interested in such Land, to direct that for the purposes of this Act the respective assessments shall be deemed to be increased or decreased in such proportions as the Commissioners shall think fit.

23. Proportional interests of Lords of Manors.

And be it Enacted, That the proportional value of the interest of the Lord of a Manor, interested as Lord in any Land subject to be inclosed under this Act, or in case there shall be several Lords of a Manor, or Lords of several Manors so interested in any Land subject to be inclosed under this Act, the proportional value of the respective interests of such Lords shall, for the purposes aforesaid, be estimated in such manner as the Commissioners may direct.

24. Commissioners to frame forms of applications, &c.

And be it Enacted, That the Commissioners shall frame and cause to be printed and circulated as they shall see occasion, forms indicating the particulars of the information to be furnished to the Commissioners by persons proposing to inclose Land under the provisions of this Act, with reference to the extent and nature of the Land to be inclosed, to the mines, minerals or valuable strata (if any) under the same, to the questions of boundary (if any) concerning such Land or such mines, minerals or strata, to the numbers and occupations of the inhabitants of the parish or place, to its vicinity to or distance from any city or town or populous district, to the parties interested in the proposed Inclosure, and the numbers who have assented to or dissented from the application, to the nature of the rights which require the interference of Parliament, to the supposed advantages of the proposed Inclosure, to the allotments (if any) proposed to be made for exercise and recreation and for the labouring poor, and to the allotment (if any) agreed on or proposed to be made to the Lord of the Manor, in case the Lord of the Manor shall be entitled to the soil of the Land proposed to be inclosed in respect of his right and interest therein, and such other information as in the judgment of the Commissioners may assist them in forming an opinion on such application, and also such other forms as the Commissioners may deem requisite or expedient for facilitating proceedings under this Act.

25. Upon application to the Commissioners, an Assistant Commissioner to inquire into the expediency of proposed Inclosure.

And be it Enacted, That any persons interested in Land subject to be inclosed, and proposing to inclose the same under this Act, may make application to the Commissioners according to the form as aforesaid, which may have been circulated by the Commissioners to sanction such Inclosure, or to certify in their annual general Report the expediency of such Inclosure, as the case may require; and in case the Commissioners shall, on the statements contained in such application, think that the inclosure of such Land, or of some part thereof, may be found to be expedient, they shall refer such application to an Assistant Commissioner, who shall inspect the Land proposed to be inclosed, and inquire into the correctness of the statements in such application, and otherwise into the expediency of the proposed Inclosure; and such Assistant Commissioner shall hold a meeting or meetings to hear any objections which may be made to the proposed Inclosure, and any information or evidence which may be offered in relation thereto, and may adjourn such meetings respectively, and shall cause notice to be given on the church door of the parish in which the Land proposed to be inclosed, or the greater part thereof, shall be situate, and also a like notice to be given, by advertisement, of the time and place of every such meeting Fourteen Days at least before every such meeting (meetings by adjournment only excepted).

26. Assistant Commissioner to report on application.

And be it Enacted, That the Assistant Commissioner to whom such application shall be referred, shall report in writing to the Commissioners the result of his inquiries, as to the statements contained in the application, and his opinion as to the expediency or inexpediency of the proposed Inclosure, with the reasons for such opinion; and in case he shall think such Inclosure expedient, he may specify any terms or conditions which may appear to him to be proper for the protection of any public interests, and of any mineral property or peculiar rights in relation to the Land proposed to be inclosed, and shall annex to his report a map or sketch of the Land proposed to be inclosed, and in case allotments for exercise and recreation or for the labouring poor should be made in the proposed Inclosure, such sketch shall show the place in which it shall appear to him that such allotments should be made.

27. Commissioners to embody the conditions of proposed Inclosure in a provisional order, and to take consents of parties interested.

And be it Enacted, That if on the report of the Assistant Commissioner, or after any further inquiries they shall think necessary in relation thereto, the Commissioners shall be of opinion, having regard as well to the health, comfort and convenience of the inhabitants of any cities, towns, villages or populous places in or near any parish in which the Land proposed to be inclosed, or any part thereof, shall be situate, as to the advantage of the proprietors of the Land to which such application shall relate, that the proposed Inclosure would be expedient, the Commissioners, by provisional order under their seal, shall set forth the terms and conditions on which they shall be of opinion that the Inclo-

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sure should be made, and especially the quantity and situation of the allotments (if any) which, under the provisions of this Act, should be appropriated for the purposes of exercise and recreation and for the labouring poor, and in case the Lord of the Manor shall be entitled to the soil of the Land proposed to be inclosed, shall specify the share or proportion of the residue of the Land which, after provision made for the payment of expenses, in case the expenses shall under the provisions hereinafter contained be so directed to be paid by sale of land, and after deducting the allotments to be made for public purposes, should be allotted to the Lord of the Manor in respect of his right and interest in the soil, either exclusively or inclusively of his right or interest in the mines or minerals under such Land, or inclusively or exclusively of any right of pasturage which may have been usually enjoyed by such Lord or his tenants, or any other right or interest of such Lord in the Land to be inclosed, as the case may appear to the Commissioners to require, or as the parties interested, with the approbation of the Commissioners, may have agreed; and in case there shall be any mineral property or any rights in relation thereto not vested in the Lord of the Manor, or other rights which shall appear to the Commissioners proper to be specially provided for upon such Inclosure, or to be excepted from the operation thereof, shall specify the provisions or exceptions which should be made in that behalf; and the Commissioners shall thereupon cause notice to be given of their intention to authorize the proposed Inclosure, or (as the case may be) to certify in their annual general Report the expediency of the proposed Inclosure, but upon the terms and conditions in such order expressed, and in case the consents required by this Act should be given within the time in such notice specified, or within any enlarged time which the Commissioners may allow for that purpose; and the Commissioners shall cause to be deposited for inspection a copy of such provisional order in or near the parish or place in which the Land proposed to be inclosed, or some part thereof, shall be situate, and may, in case they shall think fit, cause meetings to be holden by an Assistant Commissioner for the purpose of taking consents or dissents, or of ascertaining the interests of consenting or dissenting parties, or give such directions as to the mode of taking and verifying consents as they shall think fit; and in case it shall appear to the satisfaction of the Commissioners that persons, the aggregate amount of whose interests in the Land proposed to be inclosed shall not be less in value than Two-thirds of the whole interest in such Land, and the other persons, if any, whose consents may be necessary under the provisions hereinafter contained shall have consented to such Inclosure upon the terms and conditions in such order expressed, then, if the Land proposed to be inclosed cannot be inclosed under this Act without the previous direction of Parliament, the Commissioners shall in their next annual general report certify their opinion that the proposed

posed Inclosure would be expedient, with such particulars in relation thereto, or to the terms and conditions aforesaid as they shall think necessary; and in case the Land proposed to be inclosed shall be Land to the Inclosure, of which under this Act the previous direction of Parliament is not hereby required, the Commissioners shall cause notice to be given on the church door, and by advertisement, of their intention to proceed with such Inclosure under the provisions herein contained: Provided always, That where the freemen, burgesses or inhabitant householders of any city, borough or town shall be entitled to rights of Common or other interests in the Land proposed to be inclosed, the Commissioners shall not certify the expediency of the proposed Inclosure, or proceed further under this Act, unless it shall appear to the Commissioners that Two-thirds in number of such of the freemen and burgesses so entitled as may be resident in such city, borough or town, or within Seven Miles thereof, or of such inhabitant householders, as the case may be, shall have consented to such Inclosure on the terms and conditions in their provisional order specified; and in case Two-thirds in number of such resident freemen and burgesses, or of such inhabitant householders, shall have so consented, such consent shall be deemed the consent of the class of freemen, burgesses or inhabitant householders, as the case may be, so entitled.

28. Separate applications for separate Tracts.

And be it Enacted, That when it shall appear to the Commissioners that Land proposed to be inclosed under this Act shall be in part a tract of open and common Arable, Meadow or Pasture Lands or Fields, and in part a tract of Common or Waste Lands, subject to rights of Common, or shall otherwise consist of separate and distinct tracts subject to separate and distinct rights or classes of rights; and the persons interested in one of such tracts shall not be all interested in the other of them, it shall be lawful for the Commissioners to ascertain whether persons interested in each of such tracts whose interest shall not be less than Two-thirds in value of the whole interest therein, shall consent to the proposed Inclosure on the terms and conditions in their provisional order specified, and in case it shall thereupon appear that such proportion in value of the persons interested in any such tract as aforesaid shall not have consented, the said Commissioners shall not proceed further under this Act in respect of such tract, or certify in their annual general Report the expediency of the inclosure thereof, unless or until persons interested therein whose interest shall not be less than Two-thirds shall have consented thereto.

29. Consent of the Lord of the Manor.

Provided always, and be it Enacted, That when the Land to which such application shall relate shall be the Waste of any Manor or Land within any Manor to the soil of which the Lord of such Manor shall be entitled in right of his Manor, then unless there shall be some action;

action, suit or controversy as to the title of such Manor, or the title of the Lord of such Manor to such Waste or Land, or there shall be conflicting claims to such Waste or Land, or there shall be more than one person interested in such Manor, according to the definition of this Act, the Commissioners shall not proceed to an Inclosure on such application, or certify in their annual general Report the expediency thereof, unless the person interested in the Land subject to be inclosed as aforesaid in right of such Manor, or his substitute under this Act, shall consent to such Inclosure; and where there shall be more than one person interested in such Manor, the Commissioners shall not proceed to an Inclosure, or certify as aforesid the expediency thereof, in case such persons, or the majority of such persons in respect of interest, shall signify their dissent within the time limited by the Commissioners.

30. Allotments for exercise and recreation may be required as conditions of Inclosure.

And be it Enacted, That in the provisional order of the Commissioners concerning the Inclosure under the provisions of this Act of any Waste Land of any Manor on which the tenants of such Manor have rights of Common, or of any other Land subject to rights of Common which may be exercised at all times of the year for cattle levant and couchant, or to any rights of common which may be exercised at all times of the year and which shall not be limited by number or stints, it shall be lawful for the Commissioners to require, and in their provisional order to specify as one of the terms and conditions of such Inclosure, the appropriation of an allotment for the purposes of exercise and recreation for the inhabitants of the neighbourhood not exceeding the quantity hereinafter mentioned applicable to each case; that is to say, where the Land to be inclosed shall be situate in any parish the population of which, according to the then last previous Parliamentary Census, shall amount to or exceed Ten thousand persons, Ten acres; where the Land to be inclosed shall be situate in any parish the population of which, according to such Census, shall amount to or exceed Five thousand persons and be less than Ten thousand persons, Eight acres; and where the Land to be inclosed shall be situate in any parish the population of which, according to such Census, shall amount to or exceed Two thousand persons and be less than Five thousand persons, Five acres; and in every case except as aforesaid, not exceeding Four Acres; and if in the provisional order for such Inclosure the Commissioners shall not have required the appropriation of an allotment for the purposes of exercise and recreation, the Commissioners shall, in their annual general report, state the grounds on which they shall have abstained from requiring such appropriation.

31. Allotments for labouring poor.

And be it Enacted, That in the provisional order of the Commissioners concerning the Inclosure under the provisions of this Act of any Waste Land of any Manor on which the tenants of such Manor have

have rights of Common, or of any Land whatsoever subject to rights of Common which may be exercised at all times of the year for cattle levant and couchant as aforesaid, or to any rights of Common which may be exercised at all times of the year, and which shall not be limited by number or stints, it shall be lawful for the Commissioners to require and specify as one of the terms and conditions of such Inclosure, the appropriation of such an allotment for the labouring poor as the Commissioners shall think necessary with reference to the circumstances of each particular case, such allotment, nevertheless, to be subject to a rent-charge, to be payable thereout to any person or persons who may be entitled to allotments under such Inclosure as hereinafter provided; and if in the provisional order for such Inclosure the Commissioners shall not have required the appropriation of an allotment for the labouring poor, the Commissioners shall, in their annual general report, state the grounds on which they shall have abstained from requiring such appropriation.

32. Acts for the Inclosure of Lands in pursuance of the reports of the Commissioners to be deemed public general Acts.

And be it Enacted, That in case by any Act of Parliament hereafter to be passed, it shall be enacted, that the Inclosures, the expediency of which shall have been certified by the Commissioners in their annual general Report as aforesaid, or any of them, be proceeded with, the same shall in every case be proceeded with and completed according to the provisions of this Act, and on the terms and conditions in the provisional order of the Commissioners specified in that behalf, and every such Act of Parliament hereafter to be passed containing such enactment as aforesaid shall be deemed a public general Act.

33. Meeting for appointing Valuer.

And be it Enacted, That as soon as conveniently may be after the passing of any Act of Parliament by which any Inclosure shall be directed to be proceeded with under the provisions of this Act, or (in the case of Land subject to be inclosed under this Act without the previous direction of Parliament), as soon as conveniently may be after the expiration of Thirty Days from the publication by the Commissioners of the notice of their intention to proceed with an Inclosure under this Act, the Commissioners shall call a meeting of the persons interested in the Land to be inclosed, of which Twenty-one Days' notice shall be given by advertisement, to be held for appointing a Valuer to divide, set out and allot such Land, or so much thereof as shall not be directed to be set out for public purposes, among the persons interested therein, and to set out, divide and improve in such manner as hereinafter mentioned, so much thereof as shall be directed to be set out for public purposes, and the Commissioners, if they shall so think fit, may appoint an Assistant Commissioner to be present and to preside at such meeting, and to take the votes of the persons present thereat; and the persons or their agents present at the meeting, or the majority in number, and the majority in respect of interest, may appoint a Valuer; and in case the majority in number and the majority in respect

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of interest shall not agree upon the appointment, then the Commissioners shall appoint a Valuer: Provided always, That no person shall in anywise act as an Assistant Commissioner in an Inclosure under this Act, or be appointed a Valuer in such Inclosure, who shall be interested in such Inclosure, or shall be the agent ordinarily entrusted with the care, superintendence or management of the estate of any person so interested.

34. Instructions to Valuer.

And be it Enacted, That at the meeting for appointing a Valuer, or at some other meeting called by the Commissioners for the purpose, the persons present by themselves or their agents at such meeting, or the majority in number and in respect of interest of such persons, may resolve upon instructions to the Valuer not inconsistent with the terms and conditions of the provisional order of the Commissioners and of any Act hereafter to be passed by which the Inclosure may have been authorized for the appropriation of parts of the Land proposed to be inclosed for such public purposes as hereinafter mentioned or any of them; that is to say, for the formation of public roads and ways for widening or improving existing public roads and ways; for a supply of stone, gravel or other materials for the repairs of the roads and ways within the parish in which such Land shall be situate; for the formation of such public drains, watercourses or embankments as may appear conducive to the health and advantage of such parish or the neighbourhood; for the formation or improvement of public ponds, wells and watering-places; for a place of exercise and recreation for the inhabitants of the neighbourhood; for allotments or field-gardens for the labouring poor; for a supply of fuel for the poor or other inhabitants of such parish; for Land for any burying-ground, or enlarging any burying-ground; for the site of any church or chapel, parsonage-house, school, workhouse or garden to be attached thereto respectively, or for any other purpose of public utility or convenience, or for the general convenience or accommodation of the persons interested in the Land to be inclosed; and also, upon instructions to such Valuer, for the formation, alteration or improvement on the Land to be inclosed of private or occupation roads and ways, common ponds, ditches, watercourses, embankments, tunnels, bridges and fences, or any of them, or any other works for the improvement of such Land, or for the convenience of the occupiers of the respective allotments thereof; and also for the adoption and use for the purposes of the Inclosure of a copy of any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners of the Land in question, or of any other map or plan of the accuracy of which the Inclosure Commissioners shall be satisfied, or for making any new survey, map or plan, and as to all other matters and things which may be proper to be done in the matter of the Inclosure, and also for the raising and payment of all expenses incident to such Inclosure, either by sale of part of the Land proposed to be inclosed, or by such rate as hereinafter provided, as to the persons pre-

sent at such meeting, or such majority as aforesaid, shall seem fit; or in case the majority in number and not less than Four-fifths in value of interest of the persons present at such meeting shall resolve on a sale of all the land proposed to be inclosed, except such part thereof as shall have been directed to be set out for public purposes, then it may be an instruction to the Valuer to proceed to such sale; and the majority in number and value as aforesaid may make any agreement with the Valuer for the payment of such Valuer for the duties to be performed by him under this Act; and all such instructions and such agreement (if any) shall be reduced into writing, and shall be sent by the Assistant Commissioner (if any) present at the meeting, or otherwise by the Chairman of the meeting to the Office of the Commissioners; and it shall be lawful for the Commissioners, having regard to the protection of the rights of all persons interested in the Inclosure, to allow or disallow such instructions, in whole or in part, or to make such alterations therein or additions thereto, not inconsistent with the terms and conditions of such provisional order and Act as aforesaid, and to allow or disallow such agreement, as they shall think proper; and in case no instructions shall have been so resolved upon, and sent to the Commissioners, or in case they shall disallow the instructions so resolved upon and sent, it shall be lawful for the Commissioners to frame such instructions as they shall think proper, not inconsistent with the terms and conditions of such provisional order and Act as aforesaid; and in case no such agreement shall have been sent, or the agreement sent shall have been disallowed, it shall be lawful for the Commissioners to make such order for the payment of the Valuer as they shall think proper; and a copy, under the seal of the Commissioners of all such instructions as the same shall have been allowed, altered or framed as aforesaid, shall be delivered to the Valuer, with a copy of such provisional order and Act of Parliament (if any) as aforesaid, and the Valuer shall in his proceedings in such Inclosure observe and obey the directions and declarations of such provisional order, act and instructions respectively.

35. Clause (B.) Valuer may be assisted by an Assistant Commissioner.

And be it Enacted, That the said Valuer, upon the hearing and determining of any contested claim or objection, or upon awarding any costs, as hereinafter mentioned, shall, if he think proper, or if the persons interested shall in their instructions to the Valuer so direct, be assisted by an Assistant Commissioner, specially appointed as an Assessor, who shall be a practising Barrister-at-Law of Ten Years' standing at the least, and the determinations of the said Valuer as to all such contested claims and objections and costs shall be made pursuant to and in conformity with the decisions of such Assessor: Provided nevertheless, That such Assessor shall not interfere further in the execution of this Act than in settling what contested claims shall be allowed or disallowed, and what costs, if any, shall be allowed to or paid by any parties making or objecting to such claims.

And

36. Clause (C.) A Surveyor may be appointed where the parties interested think fit.

And be it Enacted, That at the meeting for appointing a Valuer, or at some other meeting called by the Commissioners for this purpose, it shall be lawful for the persons or their agents present at such meeting, or the majority in number, and the majority in respect of interest (if they shall so think fit) to appoint a Surveyor for the purposes of such Inclosure, to assist or act under the directions of the Valuer in the admeasurement, mapping and setting out of the lands to be inclosed, and where a Surveyor shall be so appointed, such Surveyor shall be subject to removal, and a Surveyor may from time to time be appointed in the place of any Surveyor who may die or be removed in such and the same manner as hereinafter provided in respect to the Valuer.

37. Form of Declaration by Valuer.

And be it Enacted, That no Valuer shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant Commissioner, Justice of the Peace, or Master Extraordinary in Chancery, the following Declaration; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, perform all the duties of a Valuer in the Inclosure of according to the provisions of an Act passed in the year of the reign of Her Majesty Queen Victoria, intituled "

Which Declaration it shall be lawful for the Commissioners or any Assistant Commissioner, Justice, or Master Extraordinary in Chancery to administer; and every such Declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the Office of the Commissioners; and a certificate, under the seal of the Commissioners, that the person named in such certificate has been appointed a Valuer in the matter of an Inclosure, and has made and subscribed the Declaration required by this Act, shall be conclusive evidence of such appointment and of his having made and subscribed such Declaration.

38. Power to set out Boundaries of Parishes.

And be it Enacted, That in case it shall be represented to the Commissioners by the Valuer acting in the matter of any Inclosure, that the boundaries of any parish, honor or manor in which the Land proposed to be inclosed, or any part thereof, shall be situate, and of any parish, honor or manor adjoining thereto, are not then sufficiently ascertained and distinguished, it shall be lawful for the Commissioners or any Assistant Commissioner by them appointed for that purpose, after giving such notices as they or he shall think necessary for the protection of the rights of all persons interested in this behalf, to ascertain and set out the same respectively

in writing under the hand and seal of such Assistant Commissioner, or under the seal of such Commissioners; and after the said boundaries shall be so ascertained and set out and fixed, the same shall and are hereby declared to be the boundaries of such parishes, honors and manors respectively; and the Commissioners or Assistant Commissioner shall, within One calendar Month after ascertaining and setting out the boundaries, publish the same, by causing a description thereof in writing to be delivered to or left at the place of abode of one of the Churchwardens or Overseers of the poor of each of the parishes of which the boundary shall be so set out, and of the Lords of the several honors and manors of which the boundary shall be so set out, or of the Stewards of the respective honors and manors, and shall give notice that such boundary has been so set out, and that such description has been so left as aforesaid, by advertisement: Provided always, That any person interested in the determination of the Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may within One calendar Month next after publication of the said boundaries, by delivering or leaving such description as aforesaid, give notice in writing of his dissatisfaction to the Commissioners, specifying the particulars in respect whereof he may be dissatisfied, and request that the matter in dispute may be submitted to the determination of a jury, or any person dissatisfied may, within One calendar Month after such publication of the said boundaries, give notice in writing to the Commissioners of such dissatisfaction, and of such particulars thereof, and of his intention to apply to the Queen's Bench to remove the determination of the Commissioners, or Assistant Commissioner, by certiorari, into the said Court; and in every case in which any person shall have requested that the matter in dispute may be submitted to the determination of a jury as aforesaid, and no notice shall have been given to the Commissioners by any person within the time hereinbefore limited of his intention to apply to the Court of Queen's Bench to remove the determination of the Commissioners or Assistant Commissioners by certiorari as aforesaid, or such determination shall not have been removed within the time hereinafter limited, the Commissioners shall and they are hereby required to issue a warrant under their hands and seal to the sheriff of the county in which the parishes, honors and manors in question or one of them shall be situate, commanding such sheriff to impannel, summon and return, and such sheriff is hereby accordingly empowered and required to impannel, summon and return a jury of at least Eighteen sufficient and indifferent men qualified according to the laws of the realm to be returned for trial of issues in Her Majesty's Courts of Record at Westminster; and the persons so to be impanneled, summoned and returned are hereby required to appear before any Assistant Commissioner specially appointed by the Commissioners for that purpose

Appeal on questions of Boundary.

purpose at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impanneled, summoned and returned, a jury of Twelve men shall be drawn by the said Assistant Commissioner, or by some person to be by him appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, such sheriff shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all parties concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Assistant Commissioner is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matter in question, and may authorize or order the said jury, or any Six or more of them, to view the boundaries or the part thereof which is in controversy, and such jury shall upon their oaths, or, being Quakers, upon their affirmations (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Assistant Commissioner is hereby empowered and required to administer), inquire into and ascertain the said boundaries, or such part thereof as shall have been in controversy, and shall declare whether the said boundaries as described and set out and published as aforesaid are or are not the true boundaries of the respective parishes, honors and manors respectively, and in case they shall declare that the same are not the true boundaries, then shall declare in what manner the boundaries so described and set out and published as aforesaid ought to be amended, and shall give verdict accordingly, and the Assistant Commissioner shall reduce such verdict to writing and certify the same to the Commissioners, under his hand and seal; and in case such jury shall have declared that the boundaries so described and set out and published as aforesaid ought to be amended, the Commissioners shall amend the same in accordance with such verdict, and such amended boundaries shall thenceforth be conclusive on all persons whomsoever.

39. Non-attendance of jurymen.

And be it Enacted, That if any person so summoned and returned upon any such jury as aforesaid shall not appear, or appearing shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act; or if any person so summoned to give evidence as aforesaid shall not appear on being paid or tendered a reasonable sum for his costs and

expenses, or appearing shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse, to be judged of and determined by the said Assistant Commissioner, shall forfeit and pay for every such offence any sum not exceeding Ten Pounds; all which said penalties and forfeitures shall and may be recovered as penalties and forfeitures are recoverable under this Act.

40. Juries to be subject to the Regulations concerning Juries returned to try issues in Courts of Record at Westminster.

And be it Enacted, That every such jury and jurymen as aforesaid shall also be subject to the same regulations, pains and penalties as if such jury and jurymen had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster.

41. Costs of appeal.

And be it Enacted, That in every case in which the verdict of a jury shall be given in favour of the person who shall have requested that such ury be summoned, all the costs of summoning such jury and the expenses of witnesses shall be defrayed by the Commissioners, and shall be expenses in the Inclosure in the matter of which the question shall have arisen, and such costs and expenses shall be settled and determined by the said Assistant Commissioner as aforesaid; but if the verdict of the jury shall be given against such person, the said costs and expenses shall be defrayed by such person; and in case such costs and expenses shall not be paid to the party entitled to receive the same within Ten Days after the same shall have been demanded, then the same shall and may, by warrant of the Commissioners directed to any person or persons whomsoever, be levied by distress; but in case such person shall have requested such jury to be summoned, in pursuance of a resolution of the rate-payers of any parish in vestry assembled, the costs and expenses so paid by him shall be repaid to him by the Overseers of the Poor of such parish, out of the poor's rate, and shall be allowed in account to such Overseers.

42. Security for Costs to be taken by the Commissioners.

And be it Enacted, That every person who shall be dissatisfied and shall require a jury to be summoned as aforesaid, shall, at his own costs, before the Commissioners shall be obliged to issue their warrant for the summoning of such jury, enter into a bond with two sufficient sureties to the Commissioners in a sufficient penalty to prosecute the complaint, and to bear and pay their costs and expenses of summoning and returning such jury and taking such verdict, and of the summoning and attendance of witnesses, in case the said costs and expenses shall fall upon them.

43. Clause (D.) Persons dissatisfied with determination of Commissioners may appeal to Court of Queen's Bench.

And be it Enacted, That any person interested in the determination of the said Commissioners or Assistant Commissioner respecting the said boundaries who shall be dissatisfied with such determination, and who shall, within the time hereinbefore limited, have given to the Commissioners notice in writing of his intention to apply to the Court

Court of Queen's Bench, as hereinbefore mentioned, may, within Six calendar Months next after publication of the said boundaries, move the Court of Queen's Bench to remove the said determination of the Commissioners or Assistant Commissioner by certiorari into the said Court, the party making such application giving (in addition to such notice of his intention as aforesaid) Eight Days' notice of such application to the said Commissioners, and in case of removal as aforesaid the decision of the said Court therein shall be final and conclusive as to the boundaries of such parish, and after the expiration of the said term of Six calendar Months the determination of the Commissioners or Assistant Commissioner shall not be removed or removable by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster or elsewhere, and no certiorari shall be allowed to remove such determination, unless the party prosecuting the certiorari shall, before allowance thereof, enter into a recognizance before One of the Justices of the said Court in the sum of Fifty Pounds, with condition to prosecute the same without wilful delay, and to pay to the said Commissioners their full costs and charges within One calendar Month after the determination shall have been confirmed to be taxed according to the custom of the Court, and no determination of a jury under the provision hereinbefore contained shall be removed or removable by certiorari; and in every case in which any determination of the Commissioners or of any Assistant Commissioner, respecting the boundary of any parish, shall be removed into the Court of Queen's Bench, it shall be lawful for the Court to direct the trial of one or more feigned issues upon such points as the Court shall think fit, and also to direct who shall be the plaintiff or plaintiffs and who shall be the defendant or defendants on such trial, or to determine the same in a summary manner or otherwise dispose of the question or questions in dispute, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

44. Power to straighten Boundaries.

And be it Enacted, That for the purpose of shortening or rendering straight any boundary fences between the Land to be inclosed and any adjoining Lands, it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in such adjoining Lands, to set out and determine the boundaries between the Land to be inclosed and such adjoining Land, or to draw and define a new line of boundary, as he shall judge proper for the purposes aforesaid; and after such boundaries shall have been so set out and determined as aforesaid, or such new line of boundary drawn and defined, the same shall be made, fenced, ditched or mounded by such person, in such manner and at such times as the Valuer shall direct, and shall for ever thereafter be deemed the boundaries and limits of such respective Lands.

45. Valuer to hold meetings.

And be it Enacted, That the Valuer acting in the matter of any Inclosure, shall from time to time hold such meetings for the examination of claims and otherwise in the matter of such inclosure as occasion shall require, and shall cause notice to be given on the church door; and also, like notice to be given by advertisement of the time and place of the meeting in the matter of such Inclosure, and of each subsequent meeting in the like manner, Fourteen Days at least before such respective meeting (meetings by adjournment only excepted), and if from any cause the Valuer shall think fit to adjourn or postpone any such meeting, it shall be lawful for him to adjourn or postpone such meeting to any future day.

46. Claims to be delivered in writing.

And be it Enacted, That all persons claiming any common or other right or interest in any Land proposed to be inclosed as aforesaid, shall deliver such claims in writing to the Valuer acting in the matter of such Inclosure, at such meeting as the Valuer shall appoint for the purpose, stating the several particulars in respect whereof such claims are made, and distinguishing the claims in respect of freehold, copyhold, customary and leasehold property from each other, and mentioning therein the places of abode of the respective claimants or their agents at which notices in respect of such claims may be delivered; and no such claim shall be received by such Valuer after the last meeting to be held for that purpose (of which notice shall be given), except for some special cause to be allowed by the Commissioners.

47. Statement of Claims to be deposited for examination

And be it Enacted, That a statement of all claims in the matter of any Inclosure which shall have been delivered to the Valuer acting in the matter of such Inclosure as hereinbefore provided, shall be made and deposited by him at some public place within the parish in which the Land to be inclosed, or the greater part thereof, shall be situate; and the Valuer shall cause Fourteen Days' notice to be given of the time and place of the meeting for the examination of such claims and for the attendance of all parties concerned therein; and at such meeting the Valuer shall proceed to examine into and determine such claims, and shall and may allow or disallow the same in whole, or in part, and make such order therein as to him shall appear just; and in case any doubts or difficulties shall arise respecting such claims, or any differences shall happen between any of the claimants touching their respective claims or the relative proportions of their rights and interests, the Valuer shall determine the same, and shall make such order therein as to him shall appear just, which order shall be final, unless any party shall be dissatisfied with the determination of the Valuer, and shall give notice, as hereinafter provided, of his desire to have the claim or matter heard and determined by the Commissioners or an Assistant Commissioner, or in case the Commissioners shall think fit to revise such determination under the power hereinafter contained.

Claims to be heard and determined by Valuer, subject to appeal to Commissioners.

And

48. Titles not to be determined by Valuer, Commissioners or Assistant Commissioners.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to enable the Valuer or the Commissioners or any Assistant Commissioner to determine the title of any Lands or to determine any right between any parties contrary to the actual possession of any such party (except in cases of encroachment, as hereinafter mentioned), but in case the Valuer or the Commissioners or Assistant Commissioner shall be of opinion against the rights of the party in possession, they or he shall forbear to make any determination thereupon until the possession shall have been given up by such party or recovered from him in due course of law; or where the circumstances shall admit, such Valuer, or the Commissioners or Assistant Commissioner may declare what right is appendant or appurtenant to any Land or hereditament, or otherwise declare by any sufficient description the rights of the owner for the time being of any Land or hereditament, without declaring by name who may be the actual owner of such Land or hereditament.

49. Provisions for encroachments within Twenty Years.

And be it Enacted, That all encroachments and Inclosures other than Inclosures duly authorized by the custom of any manor of which such Land shall be parcel, or otherwise according to law, which shall have been made by any person from or upon any part of the Land proposed to be inclosed, within Twenty Years next before the first meeting for the examination of claims in the matter of the Inclosure thereof, whether any amerciament, rent or money, payment or acknowledgment shall or shall not have been paid or made in respect of the same to or for the use of the Lord of the Soil, or any other person, shall be deemed parcel of the Land subject to be inclosed, and shall be divided, allotted and inclosed accordingly: Provided always, That in case under the circumstances of any such encroachments or Inclosures it shall appear to the Commissioners just or reasonable that rights or interests in the Lands to be inclosed should be allowed to the persons in possession of such encroachments or Inclosures, it shall be lawful for the Commissioners, either in the instructions to the Valuer, or by any subsequent order under their seal, to direct what rights and interests, either absolute or for any limited terms or estates, should be allowed in respect of such encroachments, and the Valuer shall allow and declare such rights accordingly: Provided also, That it shall be lawful for the several persons who shall be in possession of any such encroachments or Inclosures, or in the receipt of the rent thereof at the time of the determination of claims under this Act, to take down or remove all such buildings, fences and other erections as shall then be thereon, and to convert the materials thereof to their own use within Two calendar Months after notice in writing signed by the Valuer, given to such respective persons or posted on the church door; and in case any dispute or difference shall arise touching any such encroachments or Inclosures, or as to the extent thereof, such dispute or difference shall be determined by the Valuer.

50. School-houses &c. not to be deemed encroachments.

Provided also, and be it Enacted, That in case any such Land shall have been taken or used, at any time before such first meeting for the examination of claims, for the erection of a school-house or the appurtenances thereto, or for other such purposes as in the opinion of the Commissioners shall be charitable or parochial purposes, such Land so taken, or the erections made thereon, shall not be taken or deemed to be of the nature of an encroachment within the meaning of this Act; but where such land shall have been so taken for the purposes aforesaid, within Twenty Years next before such first meeting for the examination of claims, it shall be lawful for the Commissioners, where it shall appear just and desirable for the purposes of Inclosure, to direct that such land be deemed parcel of the land subject to be inclosed, and be divided, allotted and inclosed accordingly, and that compensation be made to the persons in possession thereof, or for the purposes for which such land shall have been so taken or used, by adequate allotments of the land so to be inclosed.

51. Encroachments of Twenty Years' standing to be deemed ancient Inclosures.

Provided always, and be it Enacted, That all Land which shall have been inclosed from any Land subject to be inclosed under this Act for more than Twenty Years next preceding the day of the first meeting for the examination of claims in the matter of such Inclosure shall, for the purposes of this Act, be deemed and taken to be ancient Inclosures, but not so as to carry any right of common or compensation or allotment for or in respect of right of common which might be claimed in respect of ancient Inclosures.

52. Rights in respect of Tofts to be allowed.

And be it Enacted, That all tofts, foundations or sites of ancient commonable messuages or cottages shall, upon proof being made to the satisfaction of the Valuer acting in the matter of any Inclosure, that commonable messuages or cottages formerly stood thereon, be deemed commonable messuages or cottages, and the respective proprietors thereof shall be entitled to the same compensation for the rights of common originally belonging thereto as if such messuages or cottages were still standing.

53. Rights not sustainable in law to be allowed upon proof of Sixty Years' usage.

And be it Enacted, That where any claim shall be made to any right of Common or other right which in the judgment of the Valuer or of the Commissioners or Assistant Commissioner could not be sustained in law, but proof shall be made to the satisfaction of the Valuer or of the Commissioners or Assistant Commissioner that there has been enjoyment under the right so claimed for the space of Sixty Years or upwards, next before the first meeting for the examination of claims in the matter of such Inclosure, it shall be lawful for the Valuer or the Commissioners or Assistant Commissioner to allow such claims in such and the same manner as if the right so claimed might have been legally sustained and established.

And

54. Schedule of claims allowed by valuer to be made and deposited. Claims may be reheard by Commissioners or an Assistant Commissioner.

And be it Enacted, That after the Valuer shall have heard and determined all claims and objections which shall have been made in the matter of an Inclosure, he shall cause a schedule of such claims and objections and of his determinations thereon to be deposited, and to remain for Thirty Days at the least for the inspection of all persons interested therein at some public place within the parish in which the Land to be inclosed or the greater part thereof shall be situate, and shall cause notice to be given on the church door of such parish and by advertisement of such deposit, and shall also send a copy of such schedule to the Commissioners, and shall furnish any explanations or information in relation thereto to the Commissioners as they shall require, and in case any party dissatisfied with any determination of the Valuer as aforesaid shall within Thirty Days next after notice by the Valuer of such deposit of the said Schedule cause to be delivered to the Commissioners notice in writing of such dissatisfaction and of the desire of such party to have the claim or matter so determined by the Valuer heard and determined by the Commissioners or by an Assistant Commissioner, or in case the Commissioners shall, on the representation of any persons interested in such Inclosure, or on the information given by the Valuer in relation to such schedule, be of opinion that all or any of the determinations of such Valuer shall have been made without due consideration of the legal rights of the parties interested or shall be erroneous, then and in any such case the Commissioners shall forthwith give notice in such manner as they shall think fit, appointing some convenient place and time for holding a meeting to hear and determine the claim or matter which shall be so desired to be reheard, or all or any of the claims or matters which shall be mentioned in the said schedule as the Commissioners shall think fit; and the Commissioners or any Assistant Commissioner specially empowered for that purpose shall rehear and determine such claim or matter, and the determination of the Commissioners or such Assistant Commissioner shall be final and conclusive, and shall be binding on the Valuer acting in the matter of such Inclosure, unless any party dissatisfied therewith shall try his right by an issue at law as hereinafter provided.

55. Appeal against determination of the Commissioners.

Provided always, and be it Enacted, That if any person claiming to be interested in any Land proposed to be inclosed under this Act shall be dissatisfied with any determination of the Commissioners or Assistant Commissioner, concerning any claim or interest in or to the Land proposed to be inclosed under the powers hereinbefore contained, and shall cause notice in writing of such dissatisfaction to be delivered to the Commissioners, within Thirty Days next after notice of such determination shall have been given to the several parties or persons specially interested, if any such there be, it shall be lawful for such person so dissatisfied and giving such notice as

aforesaid to bring an action upon a feigned issue against the person in whose favour such determination shall have been made, or against the Commissioners, and to proceed to a trial at law at the then next Assizes, or at the Assizes immediately following such next Assizes, to be holden for the county wherein the Land relating to which such dispute shall arise shall be situate; and the defendant in such action shall, upon being served with the usual process therein, appear thereto, and accept One or more issue or issues whereby such claim, and the right and interest thereby insisted upon, may be tried and determined; such issue to be settled by the proper officer of the Court in which the said action shall be commenced in case the parties shall differ about the same; and the verdict given upon the trial of such action shall be binding and conclusive upon all parties thereto, unless the Court wherein such action shall be brought shall set aside such verdict and order a new trial to be had; and after such verdict shall be given and final judgment obtained thereon, the Commissioners shall act in conformity thereto, and allow or disallow the claim thereby determined according to the event of such trial; and the costs attending any such action shall abide the event of the trial.

56. Determination of Commissioners not appealed against conclusive.

Provided always, and be it Enacted, That if no such notice of dissatisfaction shall be given, or if no such action at law shall be commenced as aforesaid, or if any such action shall be commenced and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, unless the Court for sufficient cause put off the trial, then the determination of the said Commissioners or Assistant Commissioner shall be final and conclusive.

57. Actions not to abate.

And be it Enacted, That if any person, plaintiff or defendant, in any action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such event had happened, the heir or devisee or other person entitled to the interest of the deceased party in the matter in question being served with process in the action; and if any person in whose favour such determination as aforesaid shall have been made, and against whom any such action might have been brought if living shall die before any action brought, it shall be lawful for the person who might have brought such action to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the Commissioners with process for commencing such action in the same manner as the deceased person might have been served therewith if living; and it shall thereupon be incumbent on the Commissioners to serve with such process the heir or devisee or personal representative of the deceased person, or other the person who shall claim the benefit of such determination as aforesaid; and on such process being served, such heir or devisee, or personal representative,

or other person, shall appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been living, and the rights, interests and claims of all parties shall be equally bound by the event of any action so brought or continued as aforesaid, as if the death of any of the persons interested therein had not occurred.

58. Commissioners may award Costs.

And be it Enacted, That in case the Commissioners or any Assistant Commissioner appointed to hear and determine any claim or matter in pursuance of this Act, shall see cause to award any costs, it shall be lawful for the Commissioners or Assistant Commissioner, upon application, to assess and award such costs as they or he shall think reasonable to be paid to the person in whose favour any determination of the Commissioners or Assistant Commissioner shall have been made, and by the person whose claim or objection shall have been disallowed; and in case any person liable to pay such costs shall neglect or refuse to pay the same upon demand, or within Fourteen Days thereafter, the Commissioners or Assistant Commissioner shall by warrant directed to any person or persons whomsoever, cause such costs to be levied by distress; and if there shall be no goods and chattels whereon to levy such costs, it shall be lawful for the person in whose favour such costs shall be awarded, to recover the same by action of debt, or on the case; in which action it shall be sufficient for the plaintiff to declare that the defendant is indebted to him in the sum specified in the order of adjudication made by the Commissioners or Assistant Commissioner, and in consequence of such order, without setting forth any other proceedings under this Act.

59. Differences may be submitted to arbitration.

Provided always, and be it Enacted, That in case any person hereinbefore authorized to bring an action upon a feigned issue, and the person against whom such action might be brought shall be desirous of submitting the matter in dispute or difference to the arbitration of any arbitrator, or of any arbitrators and umpire, it shall be lawful for such persons, to submit such matter in dispute accordingly, and such submission shall be irrevocable, and the decision thereupon shall be binding on both parties and be obeyed accordingly, and the costs of such arbitration shall abide the event; and the Commissioners may require each of the persons in difference upon any such submission to arbitration to give such security for the payment of the costs of such arbitration as the Commissioners shall think fit.

60. Power to Valuer to make Watercourses, &c.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure to set out and make such common ponds, ditches, watercourses, embankments, tunnels and bridges of such extent and form, and in such situations as he shall deem necessary, and as shall not be inconsistent with the terms and conditions, and instructions hereinbefore mentioned, in the Land to be inclosed,

and also to enlarge, cleanse or alter the course of and improve any of the existing ditches or watercourses, embankments, tunnels or bridges, as well in and over the same Land, as also in any ancient Inclosures or other Lands in the parish or respective parishes in which the Land to be inclosed may be situate, as the Valuer shall deem necessary, making such satisfaction to the proprietors of such ancient Inclosures or Lands for the damage done thereby as the Valuer shall think just; and the expense of making and enlarging, altering and cleansing such ponds, ditches, watercourses, embankments, tunnels and bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised and paid in the same manner as the other expenses of the Inclosure; but all such ponds, ditches, watercourses, embankments, tunnels and bridges shall at all times afterwards be repaired, cleansed and maintained by such persons, and in such manner as the Valuer shall direct, provided that no watercourse be diverted or turned without the consent, in writing, of the person interested in the Land from which the same may be diverted, and of the person interested in the Lands into which the same may be turned, or to the prejudice of any person interested in such watercourse, except with his consent in writing; and that no ditch or watercourse, embankment, tunnel or bridge be enlarged or altered on any land other than the land to be inclosed, without the consent, in writing, of the person interested in such land.

61. Power to alter Roads and Ways.

And be it Enacted, That in the first place the Valuer acting in the matter of any Inclosure shall and may, before he shall proceed to make any of the divisions and allotments of the Land to be inclosed, in pursuance of or in any manner not inconsistent with the instructions given to such Valuer as aforesaid, set out and make public roads and ways, and widen public roads and ways in or over the land to be inclosed, and stop up, divert or alter any of the roads or ways passing through the Land to be inclosed, or through any old Inclosures in the parish or respective parishes in which the Land to be inclosed shall be situate; and the soil of such of the roads and ways so to be discontinued and stopped up as pass through the Lands to be inclosed, shall be deemed part of the Lands to be inclosed: Provided always, That nothing herein contained shall authorize the altering or diverting any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a public meeting called for that purpose, be first obtained: Provided also, That before any public road or way shall be discontinued, diverted, stopped up or altered by the Valuer acting in the matter of any Inclosure, the Valuer shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Valuer shall also cause the same notice to be given by advertisement for Four successive Weeks, and also on the church-door on the Four Sundays of the

the said Four successive Weeks; and after the said several notices shall have been so given, such road or way shall from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

62. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within Four Months after the first Sunday on which such notice shall have been given on the church-door of the intention that such road or way should be discontinued, stopped up, diverted or altered, as the case may be, to make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions for the county, riding, division or other jurisdiction in which such road or way, or the greater part thereof, shall be situate, upon giving to the Valuer Fourteen Days' notice in writing of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such appeal, unless such notice and statement shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

63. Trial of Appeal.

And be it Enacted, That in case of such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be discontinued, stopped up, diverted or altered, or whether the party appealing would be thereby injured or aggrieved, impannel a jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if after hearing the evidence produced before them the said jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the Appellant to the Valuer, and the same shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said jury shall return a verdict that such road or way is not unnecessary, and that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the party appealing would be injured or aggrieved thereby, the said Court shall allow such appeal, and such public road or way shall not be discontinued, stopped up, diverted or altered; or in case the same shall have been discontinued, stopped up, diverted or altered, the said Court shall make an order restoring the same to its originnl state, and shall award to the Appellant the costs of prosecuting such appeal, and such costs shall be paid by the said Valuer out of the monies to be raised for the expenses of the Inclosure: Provided always, That in every case in which any such appeal as aforesaid shall be made by the Surveyor of the highways of any parish or place under the direction of the inhabitants of

such parish in vestry assembled, or, where there shall be no vestry meeting in such place, under the direction of the inhabitants contributing to highway rates assembled at any meeting of which Fourteen Days' notice shall have been given by advertisement, and on the church door, then, although such appeal shall be dismissed, the costs of prosecuting such appeal, and also such costs as shall be awarded to be paid by the appellant to the Valuer, shall be paid out of the highway rate of such parish or place.

64. Roads to be fenced.

And be it Enacted, That such public carriage roads so to be set out as aforesaid, shall be well and sufficiently fenced on both sides by such of the persons interested in the Land to be inclosed, and within such time as the Valuer acting in the matter of such Inclosure shall direct; and it shall not be lawful for any person to set up or erect any gate across any such road or way, or to plant any trees in or near to the hedges on the sides thereof, at a less distance from each other than Fifty Yards, within Ten feet of the said hedge, and the Valuer shall form and complete such parts of the said public roads and ways as shall be newly made; and every such public road and way to be set out and made under this Act shall be of the width required by the Act of the sixth year of King WILLIAM the Fourth, intituled, "An Act to consolidate and amend the Laws relating to Highways in that Part of Great Britain called England, for a Road or Way of the like Description, which may be dedicated to the Use of the Public."

65. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, and the making, the stopping up, discontinuing, diverting, widening and altering of such roads and ways, and the money compensation in respect thereof upon any Inclosure, shall be paid in such manner as the expenses of such Inclosure shall be directed to be paid.

66. Roads to be repaired by the Parish after certificate by Two Justices of the Peace.

And be it Enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the county, riding, division or jurisdiction in which the Lands to be inclosed shall be situate, shall certify any of the public roads and ways to be set out in pursuance of this Act on any Inclosure to be sufficiently formed and completed, such roads shall thenceforth be kept in repair by such persons and in such manner as the public roads within the said parish are or ought by law to be kept in repair; and every such certificate shall, at the Quarter Sessions of the Peace to be holden for the said county, riding, division or jurisdiction, next after the date thereof, be filed of record by the Clerk of the Peace.

67. Private Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may set out such private or occupation-roads and

ways

ways through the Lands to be inclosed as he shall think requisite, for the use of the persons interested in such Lands, or any of them; and any expenses which the Valuer may incur relative to the setting out or formation or completion of such private roads and ways, or any of them, shall, unless the Valuer shall otherwise direct, be paid in the same manner as the other expenses of the Inclosure; and such expenses of the formation and completion of such private roads and ways as the Valuer shall direct, shall be borne by, and after the formation and completion of such private roads and ways, the same shall be maintained and kept in repair by and at the expense of the owners and proprietors for the time being of the Land inclosed, or such of them, and in such shares and proportions, and in such manner, as the Valuer shall direct; and after such private roads and ways shall have been set out and made, the grass and herbage arising thereon shall for ever belong to and be for the use of such persons interested in the Lands to be inclosed as the Valuer shall direct; and in the absence of such direction, shall belong to the proprietors of the Land to be inclosed which shall next adjoin the said roads and ways on either side thereof as far as the crown of the road; and, after such setting out as aforesaid, all private or occupation-roads or ways over, through and upon the Lands to be inclosed which shall not be set out as aforesaid, shall be for ever stopped up and extinguished.

68. Rights of Common may be suspended.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, before the making of the award, when the Commissioners shall think necessary for the purpose of the Inclosure, and by order under their seal, authorize or direct, by notice on the church door, to order all or any part of the rights of sheep-walk, common or other rights in or over the Land to be inclosed, or any part thereof, to be extinguished from such time, or the exercise thereof to be suspended during such time as shall be expressed in such notice, and from the time mentioned in such notice such rights shall be extinguished or suspended accordingly; and if during the suspension or after the extinguishment of any such rights of sheep-walk, common or other rights as aforesaid, any person shall permit his horses, cattle, sheep or swine to go or depasture upon any of the Lands over which such rights shall be suspended or extinguished, it shall be lawful for the Valuer acting in the matter of the Inclosure, or any other person by his order (testified in writing under his hand), or any of the persons interested in such Lands or in the Inclosure thereof, to distrain such horses, cattle, sheep or swine being upon such Lands contrary to such order, and to impound the same until the person so offending shall pay to the person so distraining such sum of money as the Valuer shall, by writing under his hand, have previously ordered, not exceeding Ten Shillings for each horse or head of cattle, and Five Shillings for each sheep or swine so distrained; and in case the same shall not be paid within Seven Days after the same shall have been impounded, the

Valuer is hereby authorized to recover the same by way of penalty, as hereinafter mentioned.

69. Course of Husbandry may be directed.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, at such time as he shall think fit, by notice on the church-door, to direct the course of husbandry and the stint or rule of stocking that shall be observed upon the Land to be inclosed until the time when the Inclosure thereof shall be completed, as well with respect to the laying down, ploughing, sowing, fallowing, manuring and tilling thereof, as to the stocking and feeding of the commonable Lands, and fallows or stubbles upon the same; and to direct such recompense to be made as he shall think right to any person injured by such directions, all which directions shall be binding upon all parties interested, their farmers and tenants; and the Valuer shall impose such pecuniary penalties on every person not conforming to such directions as he shall think necessary, not exceeding the sum of Five Pounds per acre in the case of cross-cropping, or withholding from the Land its due proportion of manure, or Ten Pounds in any other case, for any one offence; and shall also determine in all cases where the tenant is entitled by agreement or custom to the manure arising from the Lands in his occupation, by whom and in what sum of money such tenant shall be compensated for any such manure left or given up by him; and such penalties and other sums of money shall be recovered in the same manner as by this Act directed for the recovery of penalties.

70. Compensation for growing Crops.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall, by writing under his hand, order what recompense in money shall be made to the owner of any crops growing, according to his agreement or lease, or according to the customary mode of cultivation within the parish in which the Land to be inclosed shall be situate, upon such Land at the time of the division, allotment and inclosure for the said crops, by the person to whom the Land on which such crops are growing shall be allotted; and also what recompense in money shall be paid, and by whom, to any tenant or occupier of Land, as well for the ploughing, tilling, cultivating, manuring or folding any Land to be inclosed for the benefit accruing thereby to the person to whom such Land shall be allotted, or for any loss or disadvantage which any tenant or occupier may sustain by the loss of his following or way-going crops upon the Land to be inclosed; and if in any of the said cases the money to be paid for such recompense be not paid at the time and in the manner ordered by the Valuer, then the same may be recovered by the person entitled thereto from the person liable to pay the same, in the same manner as penalties and forfeitures are recoverable under this Act.

And

71. Allotment for repair of Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall allot to the Surveyor of the Highways for the time being of the parish in which the Land proposed to be inclosed, or any part thereof, shall be situate, and to his successors for ever, such part of the Land proposed to be inclosed as by the instructions given to such Valuer shall have been directed to be appropriated for supplying stone, gravel or other materials for the repairs of roads and ways as aforesaid; or in case no such instructions shall have been given in this behalf, and the Valuer shall think an allotment necessary for the purposes aforesaid, such part as the Valuer shall think fit; and such allotments shall be inclosed and fenced as the Valuer shall direct, and shall, from the confirmation of the award, be vested in the Surveyor of the Highways within the said parish for the time being, in trust for the purposes aforesaid; and the grass and herbage of such allotments shall belong to such persons as by the Valuer shall be directed; and if he shall make no such direction, then such Surveyor shall from time to time let any such allotment, reserving the right to get and take away such stone, gravel and other materials when and as he shall think fit, for the most money that can be obtained for the same, and shall apply the rents and profits towards the repairs of the public roads or highways within the said parish; and the said Surveyor shall account for such rents and profits in the same manner as he is by law accountable for other monies that shall come to his hands in the capacity of Surveyor of the Highways, and shall be subject to the like penalties for the neglect thereof.

72. Allotments for public purposes.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of the provisional order of the Commissioners or any Act hereafter to be passed, or the instructions given to such Valuer as aforesaid, set out and allot such part of the Lands to be inclosed as by such provisional order or Act, or instructions respectively, shall have been directed to be appropriated as a place of exercise and recreation for the inhabitants of the said parish and neighbourhood; and such allotment shall, unless the same shall be otherwise awarded under the provision hereinafter contained, be made and awarded to the Churchwardens and Overseers for the time being of the parish in which the same shall be situated, and shall be held by the Churchwardens and Overseers for the time being of the said parish for the purposes aforesaid, and shall be in the first instance fenced, and where occasion shall require, drained and levelled by the Valuer, the expense in such case to be considered part of the expenses of the Inclosure; or shall be fenced by any person to whom adjoining Land shall be allotted as the Valuer may direct; and the fences of such allotment shall for ever afterwards be repaired and maintained, and the surface thereof kept drained and level by such Churchwardens and Overseers, or by the Churchwardens and Over-

seers of the several parishes interested therein, in such proportions and manner as shall be directed by the Valuer out of the rents to be received for the herbage of the said allotment, or out of the poor-rate of the said parish or respective parishes or otherwise; and the grass and herbage growing upon such allotment may be from time to time let by the Churchwardens and Overseers, in whom the same shall be vested, and the rents which shall be received by them for the same shall be by them from time to time applied, in the first place, in maintaining and repairing the fences of the said allotment, and keeping the surface thereof drained and level as aforesaid, and subject thereto in aid of the rates for the repair of the public highways in the said parish or respective parishes; and the Valuer shall in like manner set out and allot such part of the Land to be inclosed, as by such provisional order or Act, or instructions as aforesaid, shall have been directed to be appropriated as an allotment for the labouring poor, unto the Churchwardens and Overseers of the poor of the parish in which such allotment shall be situate, subject nevertheless to a rent charge to be payable thereout to any person or persons who may be entitled to allotments under such Inclosure, as hereinafter provided; and the said Valuer shall in like manner, in pursuance of the directions of or in any manner not inconsistent with the directions of such provisional order or Act, or instructions as aforesaid, set out and allot for the other public purposes mentioned in such provisional order or Act, or instructions as aforesaid, such parts of the Land to be inclosed as shall have been thereby respectively directed to be set apart for such purposes, and such allotments shall be made to such persons respectively, with such regulations and provisions as to the fencing, maintenance, use and enjoyment thereof respectively as the Valuer, with the approbation of the Commissioners, shall direct; and in every case in which the Valuer, with such approbation of the Commissioners, shall not think it necessary or proper to direct the same to be otherwise made, such allotments shall be made to the Churchwardens and Overseers of the poor for the time being of the parish in which such allotments shall be situate; and all allotments which shall be made to the Churchwardens and Overseers under this Act, shall be held by the Churchwardens and Overseers of the poor for the time being in the same manner, and with the same legal powers and incidents, as if the same allotments were Lands belonging to the parish, but in trust, nevertheless, for the purposes for which the same shall be allotted, and subject as to the said allotment for the labouring poor to the provisions in relation thereto hereinafter contained, and as to all other such allotments, subject to such directions for the maintenance, fencing, management and use thereof as the Valuer, with the approbation of the Commissioners, may think fit.

73. Provision for awarding allotments for exercise, &c.,

Provided always, and be it Enacted, That it shall be lawful for the Valuer, with the approbation of the Commissioners, to set out and allot

allot such Land as shall be appropriated as a place of exercise and recreation as aforesaid, to any person entitled to an allotment under the Inclosure, and who shall consent to receive the same in full, or in part of his allotment, and the person to whom the Land so to be appropriated shall be allotted, and all future owners thereof, shall, unless it shall be otherwise directed by the award, be subject to the obligation of maintaining the fences of such Land, and of preserving the surface thereof in good condition, and of permitting such Land to be at all times used for exercise and recreation by the inhabitants of the parish and neighbourhood, and, subject to such obligations, the herbage of such Land shall belong to the person to whom such Land shall be so allotted.

to individuals subject to the obligation of permitting it to be used.

74. And be it Enacted, That every allotment which shall be made and awarded for the labouring poor may be so awarded, subject to and chargeable with a clear rent-charge or clear rent-charges, not exceeding in the whole the net annual value of the allotment in its actual condition at the time of making the same; and every such rent-charge shall be deemed at the time of the confirmation of the award to be of the value of such number of imperial bushels, and decimal parts of an imperial bushel of wheat, barley and oats, as the same would have purchased at the average prices during the Seven Years ending on the Thursday next before Christmas-day One thousand eight hundred and Thirty-five, as the same were ascertained by the advertisement inserted in the London Gazette, under the provisions of the Act of the seventh year of King William the Fourth, intituled, "An Act for the Commutation of Tithes in England and Wales," in case One-third part of such rent-charge had been invested in the purchase of wheat, One-third part thereof in the purchase of barley, and the remaining Third part thereof in the purchase of oats, and the respective quantities of wheat, barley and oats, so ascertained, shall be stated in the award; and every such rent-charge shall be paid by equal half-yearly payments on the First day of July and the First day of January, the first of such half-yearly payments to be made on the first of such half-yearly days after the expiration of Three Years from the date of the confirmation of such award; and such sum of money shall be payable in respect of such yearly rent-charge as, according to the prices ascertained by the then next preceding advertisement for the purposes of the said Act of the seventh year of King William the Fourth, would have been payable in respect of a rent-charge of like amount charged on Lands under the provisions of such Act; and the sum of money thenceforth payable in respect of such rent-charge charged under the provisions of this Act, shall vary so as always to consist of the price of such number of bushels and decimal parts of a bushel of wheat, barley and oats respectively, according to the next preceding advertisement for the time being, in like manner as if the same had been a rent payable under the provisions of the said Act of the seventh year of King

Allotments for the labouring poor may be made subject to a Corn rent-charge, to vary and be recoverable as a Tithe Rent-charge.

William the Fourth, and the persons entitled to any rent-charge charged under the provisions of this Act, shall have the same powers and remedies for enforcing payment thereof in all respects as are by the said Act of the seventh year of King William the Fourth, or by any Act for amending the same, given to the persons entitled to rent-charges charged under the said Act of the seventh year of King William the Fourth, for recovering and enforcing payment of such last-mentioned rent-charges, and nothing herein or in such award contained shall render any person personally liable to the payment of any rent-charges to be charged under the provisions of this Act: Provided always, That when such allotment, or any part thereof, shall be let and occupied as gardens under the provisions hereinafter contained, the person for the time being entitled to the rent-charge charged thereon, shall not distrain for such rent-charge on the occupiers of such gardens; but the person so entitled may, in case such rent-charge shall be in arrear, give notice to the occupiers of such gardens, and to the Allotment Wardens, or any of them, and shall thenceforth, until the arrears of such rent-charge, with all expenses occasioned by the non-payment thereof, shall be fully paid, be entitled to receive all the rent which after such notice shall accrue in respect of such gardens, and shall have the same remedies for recovering such rent, and the same powers of determining the tenancy of such occupiers and of letting and dealing with such allotment, as such Allotment Wardens would have had in case such rent-charge had not been in arrear; and in case the said Allotment Wardens, or any of them, after such notice shall have been given to them as aforesaid, and before the arrears of such rent-charge, with all such expenses as aforesaid, shall have been fully paid, shall receive any rent from the occupiers of such gardens, such of the Allotment Wardens as shall have received such rent, shall on demand pay to the person then entitled thereto the arrears of the said rent-charge then remaining unpaid, and the expenses occasioned by the non-payment thereof; and in default of such payment on demand, such arrears of rent-charge and expenses may be recovered from the Allotment Wardens liable to pay the same as penalties are recoverable under this Act.

75. Allotment to Lord.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the payment of the expenses by sale of Land in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall allot and award unto the Lord of the Manor so much and such part of the Land proposed to be inclosed as shall in the judgment of the Valuer be equal (quantity and value considered) to such a part of the residue of such Land as shall be proportioned to his right or interest therein, according to the directions of the provisional order of the Commissioners, in lieu of his right and interest

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in the soil of the said Land, exclusive of any other allotments which may be made to such Lord in lieu of or in satisfaction for any other rights or interests in such Land to which he may be entitled, and which shall not have been included in the estimate in such provisional order of his right and interest, and in case it shall have been declared by such provisional order that the right or interest of the Lord has been estimated exclusively of his right or interest in the mines and minerals under the Land to be inclosed, then the Valuer shall and may, on the request in writing of the Lord, reserve or award to the Lord such rights and easements for searching for, working and carrying away such mines and minerals, subject to such provisions for compensation for damage to be done to the surface in the exercise of such rights and easements, as by the Valuer, with the approbation of the Commissioners, shall be thought reasonable, and as shall not be inconsistent as to the terms of such provisional order.

76. Allotment of residue.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for all or any part of the expenses of the Inclosure by sale of Lands in case all or any part of the expenses shall be so directed to be paid, the Valuer acting in the matter of the Inclosure shall divide, allot and award all the remainder of the Land to be inclosed unto and amongst the several persons who shall be interested therein, in such shares and proportions as he shall adjudge and determine to be proportionate to the value of their respective rights and interests which shall have been claimed and allowed under the provisions hereinbefore contained.

77. The Rent-charges payable out of Allotments for the labouring poor to be allotted to persons entitled under the Inclosure.

And be it Enacted, That where any allotments shall be made for the labouring poor under the provisions hereinbefore contained, subject to any rent-charge or rent-charges, such rent-charge or rent-charges may be allotted to any person or persons who may elect to receive the same, in full or in part of his or their allotment or allotments, and in case no person shall so elect to receive the same, then to such persons and in such shares as the Valuer may think convenient for the purpose of equalizing allotments or otherwise; and it shall be lawful for the Valuer, for the purposes of allotment under this clause, to estimate the value in fee-simple of every such rent-charge to be Four-fifths only of the value of an allotment of land equal in net annual value to such rent-charge.

78. Separate Allotments to be made in respect of separate Titles.

And be it Enacted, That when any person to whom any allotment shall be made, or Land assigned in exchange by virtue of this Act, shall hold such Land, or the Land in respect of which such allotment or exchange is made under different titles or for different estates, and as to copyhold or customary Land by separate quit-rents, the Valuer in the matter of the Inclosure shall ascertain and distinguish the Land held for each of such estates and under each of such titles respectively,

and shall accordingly set out distinct and several allotments for such respective Lands, and distinguish the several estates holden by several and distinct quit-rents.

79. Several Allotments may by consent be laid together.

And be it Enacted, That in case any number of the persons interested in the Land to be inclosed shall desire to have their allotments thrown together, and distinguished by metes and bounds, but not fenced from each other, and of such their desire shall give notice in writing to the Valuer acting in the Inclosure, such Valuer shall set out the several allotments of such persons so giving notice as aforesaid, by metes and bounds, but in one parcel of Land, and without requiring them to make any subdivision fences or other fences, save such ring or outer fences as may be necessary, or as the Valuer may direct to be made for dividing the said parcel of Land from the residue of the Land so to be inclosed.

80. Cultivated Land and Buildings to be alotted to the Proprietor.

Provided always, and be it Enacted, That it shall not be lawful for the said Valuer to allot to any other person than the proprietor thereof any Land (other than encroachments and inclosures not authorized by law made within Twenty Years next before the First meeting for the examination of claims as aforesaid) which may be cultivated as orchard or garden, or on which any building may have been erected, or which may have been inclosed by virtue of any agreement between the proprietor thereof and the persons having right of Common over the same, without the consent in writing of such proprietor.

81. Regard to be had to the situation of Homesteads.

And be it Enacted, That the Valuer in making the several allotments hereby directed, shall have due regard as well to the situation of the respective houses or homesteads of the persons interested in the Land to be inclosed as to the quantity and quality of the Land to be allotted to them respectively, so far as may be consistent with the general convenience of such persons; and that such Valuer in making the said Allotments shall have particular regard to the convenience of the persons interested in respect of the smallest estates in the Land subject to be inclosed under this Act.

82. Allotments to be fenced.

And be it Enacted, That the several allotments to be made, except the allotments to the Surveyor and Churchwardens and Overseers respectively, and the other allotments for public purposes, shall be inclosed, ditched and fenced at the expense of the respective persons to whom the same shall be allotted, in such manner and within such times as the Valuer shall direct; and the fences so to be made shall for ever afterwards be repaired and maintained by such persons as the Valuer shall direct; and if from the situation, or from any other circumstance, it shall happen that any person to whom any allotment shall be made, shall not have a fair proportion of the boundary ditches or fences assigned to him to make, it shall be lawful for the Valuer, acting in the matter of any Inclosure, to ascertain and appoint

appoint what sum of money shall be contributed by such person towards making the boundary, ditches and fences of the allotments of such other persons as shall have assigned to them to make too great a proportion thereof; and such money shall be paid to such persons and in such manner as by the Valuer shall be directed, and the same may be recovered in the same manner as penalties or forfeitures are recoverable under this Act.

83. Allotments may be made to purchasers.

And be it Enacted, That if at any time before an allotment shall have been made by the Valuer, any person shall sell his right or interest in the Land to be inclosed or any part thereof to any person, the Valuer shall, upon such sale being certified to him in writing by the vendor, make an allotment of Land to the purchaser or to his heirs or assigns in respect of the right or interest so sold; and every such purchaser or his heirs or assigns shall from the confirmation of the award hold and enjoy the Land so to be allotted to him in such manner as the vendor might or ought to have done, in case such sale had not been made; and it shall be lawful for any person who shall be entitled to any allotment under this Act, to devise, convey, surrender or otherwise assure the same allotment or all or any part of his interest therein at any time before the confirmation of the award; and every such devise, conveyance, surrender and assurance shall be of the same validity as if the same had been made after the confirmation of the said award; and it shall be lawful for any person entitled to any allotment to sell, dispose of or convey the estate in right of which he may be entitled to such allotment, separate from and retaining to himself such allotment, or the right thereto; and the Valuer is hereby required to award such allotment accordingly.

84. Allotments to be made to representatives of parties dying.

And be it Enacted, That if any person interested in any Inclosure under this Act shall die before the same shall have been completed, the powers and authorities hereby vested in the Commissioners, Assistant Commissioner and Valuer shall not be thereby determined or suspended, but they shall proceed in the execution of such powers and authorities in such manner as they might have done in case such person had not died; and the allotment which might have been made to the person so dying shall be made to such person as by the law shall become entitled to the same, and shall be accepted and fenced by such party according to the directions contained in the award, and he shall be liable to the charges and expenses and other conditions of the Inclosure.

85. Old Inclosures may be allotted with consent.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in any old inclosed Lands, or Lands holden in severalty, or otherwise not subject to be inclosed under the general provisions herein before contained, but within the parish in which the land to be inclosed, or some

part thereof, shall be situate, or within some parish adjoining thereto, to order and direct such old inclosed Lands or other Lands as last aforesaid, to be considered as allottable and parcel of the Land to be inclosed; and such allowance shall be made to the person interested in such Lands on account of the situation or other beneficial circumstances thereof as the Valuer shall adjudge to be just and reasonable; and he shall allot and award unto the person so interested in such old inclosed Lands, or other Lands as aforesaid, so much and such part of the Land to be inclosed as he shall think reasonable and just.

86. Allotments to freemen and other classses of persons entitled to common rights.

And be it Enacted, That where the freemen or burgesses of any city or borough, or the householders or inhabitant householders of any town or place, or any class or description of such freemen, burgesses, householders or inhabitant householders, or any other persons as a class, shall be entitled to rights of common or other rights over the Lands to be inclosed, it shall be lawful for the Valuer to award in respect of such rights one or more allotment or allotments for the benefit of the class so entitled, to any Two or more trustees, who shall be nominated by the majority at such meeting as hereinafter mentioned, or in case Two or more trustees shall not be nominated at such meeting, then to such trustees as the Commissioners shall approve, with provisions for the appointment of new Trustees from time to time, or to the Churchwardens and Overseers of the Poor of the parish in which each allotment shall be situate, in trust for the parties entitled to the right in respect of which the allotment shall be made; and it shall be also lawful for the Valuer, having regard to such instructions, if any, as may have been resolved on at such meeting as hereafter mentioned, or to such instructions as shall be given by the Commissioners in this behalf, to direct in what manner and under what regulations such allotment shall be occupied or enjoyed by the persons from time to time entitled to the benefit thereof, and (in case the Valuer, having regard to such instructions, shall think fit) to give directions and powers for the letting of such allotment from year to year, or for any term of years, subject to such provisions and restrictions as the said Valuer, with the approbation of the Commissioners, shall think fit, and for the receipt of the money to arise from such letting, and for the application of such money for the benefit of the persons entitled to the benefit of the allotment, and to give all such directions and provisions for the fencing, draining and management of such allotment, as the Valuer may think expedient.

87. Power to sell such allotment.

Provided also, and be it Enacted, That it shall be lawful for the Valuer, with the approbation of the Commissioners, and of such meeting as hereinafter mentioned, to sell and dispose of the whole or any part of any allotment to which any such class of persons as aforesaid shall be entitled under this Act, and the allotment or any

part

part thereof so sold shall be conveyed by the Commissioners as the purchaser shall direct, and the Commissioners shall sign a receipt for the purchase-money, which shall be a sufficient discharge for the same; and the purchase-money arising from the sale, or the surplus thereof, after payment thereout of any expenses to which the same shall be liable, shall, with the approbation of the Commissioners, be paid to any trustee or trustees upon trust for the investment thereof, with provisions for the appointment of new trustees from time to time, and for the application of the interest and annual produce of such investment to such purposes, for the benefit of the persons who would have been entitled to such allotment, or the part thereof so sold, in case the same had not been sold as the Commissioners shall approve, and by the final award in the matter of such Inclosure direct.

88. Meeting of persons entitled for giving instructions to Valuer.

Provided also, and be it Enacted, That when the claim of any class of persons entitled as aforesaid, shall be allowed, the Valuer shall certify such allowance to the Commissioners, and the Commissioners shall call a meeting of such persons by advertisement, for the purpose of appointing trustees of the allotment to be made for their benefit, and for giving instructions to the Valuer concerning the enjoyment, occupation and management of such allotment, or for letting the same, and for the application of the money to arise from such letting, or in case such meeting shall think fit that such allotment, or any part thereof, shall be sold, for directing the sale thereof, and the investment of the money arising from such sale, and the application of the income thereof; and the Commissioners, having reference to the total number of such class (so far as the Valuer or the Commissioners may have ascertained the same), shall by such notice declare the number of persons who should be present at such meeting to give validity to the proceedings, and the decision of the majority of such meeting shall bind the minority and all absent parties: Provided always, That no meeting shall be effectual for the purpose aforesaid unless such a number of the said persons shall attend the same as shall be mentioned in that behalf in the advertisement calling such meeting; and if no effectual meeting shall be held for the purpose aforesaid, or being held, no instructions shall be resolved on by the majority present at such meeting, or in case the Commissioners shall deem such instructions unjust or unreasonable, the Commissioners may give such instructions to the Valuer in respect of the matters aforesaid as they shall think fit, provided that no sale of any such allotment, or any part thereof, shall be made, except in pursuance of a resolution of a meeting called as aforesaid; but a recital in the conveyance by the Commissioners upon any sale, that such sale was duly authorized, shall for all purposes of title be evidence that such sale was made in pursuance of the resolution of a meeting duly called as aforesaid.

89. Partitions may be made.

And be it Enacted, That where any persons interested in Land to be inclosed under this Act shall be so interested in undivided shares or as joint tenants, coparceners or tenants in common, it shall be lawful for the Valuer, upon the request in writing of any of the persons so interested in undivided shares, or as joint tenants, coparceners or tenants in common, to make partition of the Lands or allotments coming to such persons so interested, and to allot the same to such persons in severalty; and immediately after the said allotments shall be so made and declared, the same shall be holden and enjoyed by the persons to whom the same shall be allotted in severalty, subject to the same uses as such undivided share would have been subject to in case such partition had not been made; and every such partition shall be specified in the award, and shall be valid and effectual to all purposes.

90. Costs of Partition.

And be it Enacted, That all costs and expenses attending any partition to be made by virtue of this Act, shall be borne and defrayed by the several proprietors of, or persons interested in, the estates which shall be so parted, in such manner and proportions as the Valuer shall order; and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

91. Exchanges.

And be it Enacted, That it shall be lawful for the Valuer to allot and award any Land to be inclosed in exchange for any other Land within the parish in which the Land to be inclosed shall be situate, or any adjoining parish; and it shall be lawful for the Valuer in exercise of this present power, to allot all or any part of the Land which would have been subject to be allotted under this Act for the purposes of exercise and recreation, or for the labouring poor, or for any other public purposes, to any person in exchange for other Land in the parish, or in any adjoining parish, which shall appear to the Valuer more suitable or convenient for the purposes of exercise and recreation, or for the labouring poor or for such other public purposes as aforesaid, and to allot such other Land for such purposes accordingly; and all Lands taken and allotted as aforesaid under this provision, although not situate in the parish in which the Land given in exchange for the same shall be situate, shall for the purposes of the provisions herein contained be deemed to be within such parish, and be managed and dealt with accordingly; provided that all exchanges under which Land shall be taken and allotted for public purposes as aforesaid shall be made with the consent of the person interested in the Land so taken, and that all other exchanges be made with the consent in writing of the persons interested in the Lands so exchanged, and every such exchange so to be made shall be valid and effectual to all purposes, and shall be specified and declared in the

the award: Provided also, That no exchange shall be made of any Land held in right of any church or chapel or other ecclesiastical benefice without the consent, testified in writing, of the Bishop of the diocese and the patron of such benefice: Provided also, That all costs and expenses attending the making and completing of any such exchanges, except exchanges of Land taken for public purposes, shall be borne by the several parties making such exchanges, in such manner and in such proportions as the Valuer shall direct, and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures, and the expenses of the exchanges of Land taken for public purposes shall be considered part of the expenses of the Inclosure.

92. Wills and Settlements not to be affected.

And be it Enacted, That nothing in this Act contained shall extend to revoke, make void or alter any will, settlement, uses or trusts, or to prejudice any person having any right or claim of dower, jointure, annuity, portion, debt, charge, rent or incumbrance upon or affecting any of the Land to be inclosed, or which shall be exchanged or given in partition in pursuance of this Act; but the Land allotted and the Land given in exchange or partition, shall immediately after such allotment, exchange or partition, be and enure, and the several persons to whom the same shall be allotted or given in exchange or partition as aforesaid, shall thenceforth stand and be seised and possessed thereof respectively to and for such and the same estates, uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances as the several Lands, rights or undivided shares thereof in respect whereof such allotments, exchanges and partitions shall have been made would have stood limited to and for, or been subject to, in case the same had not been allotted, exchanged or given in partition as aforesaid, and as if this Act had not been made, save and except such leases and tenancies at rack-rents as shall become void by virtue of this Act, and any joint tenantcy which may have been severed by partition as aforesaid, and such rights of common and other rights as are intended to be extinguished by the Inclosure, and subject nevertheless to all such mortgages and sales as shall be made by authority of this Act.

93. Tenure of the Allotments.

And be it Enacted, That all such Land as shall be taken in exchange or on partition or be allotted by virtue of this Act, shall be held by the person to whom it shall be given in exchange or on partition or allotted, under the same tenures, rents, customs and services as the Land in respect of which such Land shall have been given in exchange or on partition or allotted, would have been held in case no such exchange, partition or inclosure had been made; and the Land taken in exchange or on partition or allotted in respect of freehold shall be deemed freehold, and the Land taken in exchange or on partition or

allotted in respect of copyhold or customary Land, shall be deemed copyhold or customary Land, and shall be held of the Lord of the same Manor under the same rent and by the same customs and services as the copyhold or customary Land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary Land in respect whereof such exchanges, partitions or allotments shall be made, and as to copyhold or customary allotments without any new admittance in respect of the lands taken or allotted respectively; and the Land given in exchange or on partition or allotted in respect of leasehold Land, shall in like manner be deemed leasehold, and shall be held under the same rents and covenants as the Land in respect of which it may have been allotted was held; and the remainder or reversion thereof shall be vested in the same lessor respectively as the remainder or reversion of such other Land was vested before the exchange, partition or allotment, except where otherwise particularly directed by this Act.

94. Leases at Rack rent may be voided.

And be it Enacted, That immediately after the allotments herein directed to be made on any Inclosure shall have been marked and staked out, the Valuer acting in the matter of such Inclosure may direct the same to be entered upon by the persons respectively for whom the same shall be intended; and immediately after the Valuer shall so direct them to be entered upon, all leases, agreements and tenancies at rack-rent subsisting of any part of the Land to be inclosed, or which shall be exchanged in pursuance of this Act, or any common right thereon, shall, so far only as respects the Land to be divided and allotted or exchanged or common right, cease and be void at such time or times as the Valuer shall, by writing under his hand, direct or appoint, so as the respective lessors or landlords of such Land do, before or at the respective times at which such leases, agreements or tenancies shall be directed to cease, make and pay such satisfaction to the respective lessees or tenants for the loss which shall be sustained by the determination of such leases, agreements and tenancies respectively, so far as regards the Land or common right, the leases, agreements and tenancies whereof are hereby authorized to be determined as shall be mutually settled and agreed between them, or as the Valuer, being required by either of the parties, shall ascertain and direct; and the Valuer, being so required, is hereby empowered and directed, by writing under his hand, to apportion a reasonable and proportionable part, having regard to the season of the year, of the rent reserved on any such lease, agreement or tenancy for or in respect of the time which shall have elapsed between the last day on which any payment of the rent shall have become due and the determination of any such lease, agreement or tenancy, and such part of the rent shall be recoverable by such ways and means as may by law be used for the recovery

recovery of rent in arrear; and the Valuer is hereby empowered and directed, in every case where such Land or common right shall be held by virtue of any such lease, agreement or tenancy, together with other Lands or hereditaments, by one entire rent, by writing under his hand, to apportion and determine what part of such rent shall be deducted in respect of the Land or common right in such lease, agreement or tenancy comprised, as to which the same shall be determined as aforesaid, and from what time such deduction shall take place; and the rest of the rent reserved on any such lease, agreement or tenancy shall during the remainder of the term thereof be the rent of and for the residue of such Lands and hereditaments, and shall be payable and recoverable in like manner as the entire rent reserved by such lease, agreement or tenancy shall immediately before such apportionment be payable and recoverable; and the lessor or reversioner shall in respect of such apportioned rent, and in respect of the residue of such Lands and hereditaments, have the benefit and advantage of the provisoes and conditions which would have been applicable to the entire rent, and to all the Lands and hereditaments comprised in such lease, agreement or tenancy in case such lease, agreement or tenancy had not been determined as to any part of such Land: Provided always, That no lease, agreement or tenancy shall be determined as aforesaid as to any house, cottage or other building, without Three calendar Months' previous notice, in writing, of such determination, under the hand of the Valuer, shall have been given to the lessee or tenant, or left at such house, cottage or building.

95. Seigniories not affected except with consent.

Provided always, and be it Enacted, That in every case all seigniories, royalties, franchises and manorial jurisdictions whatsoever, in or upon the Land to be inclosed under this Act, shall not be deemed to be compensated or extinguished, but shall be saved and excepted out of the operation of this Act, unless in and by the award it shall be declared, with the consent of the Lord or respective Lords interested therein, that such seigniories, franchises, royalties and jurisdictions shall be extinguished upon the proposed Inclosure.

96. Minerals under regulated pastures may be reserved while minerals under Lands to be held in severalty are relinquished.

Provided always, and be it Enacted, That in every case in which, under the provisions hereinafter contained, part of the Land subject to be inclosed under this Act shall be converted into and used as a regulated pasture, and the residue thereof shall be divided and allotted in severalty, it shall be lawful for the Valuer, having regard to the right of the Lord of the Manor, as the same shall have been ascertained and declared by the provisional order of the Commissioners and with the consent of the Lord of the Manor, and a majority in value of the other persons interested in the Lands proposed to be inclosed, to direct that the rights of the Lord of the Manor in and to the mines and minerals under such part of the Land as shall be converted into and used as a regulated pasture, shall be reserved to the Lord, and that the mines

and minerals under the residue to be divided and allotted in severalty, shall become the property of the owners of the respective allotments, and that the allotments be adjusted accordingly.

97. Right to Minerals under Land inclosed, existing distinct from the property in the surface, and not compensated upon inclosure, not affected.

Provided also, and be it Enacted, That in every case in which the right to the mines and minerals under any Land inclosed under this Act shall exist as property distinct and separate from the property in the surface, and shall not be compensated upon the Inclosure, the right and property in such mines and minerals, and all rights and easements auxiliary to or connected with the exercise or enjoyment of the right and property in such mines and minerals, shall be in nowise affected by the Inclosure; and in case any mines and minerals under any Land inclosed under this Act, or the right of searching for or getting the same shall have been leased or agreed to be leased to any person as property distinct and separate from the property in the surface, with or without powers over the surface of the Land auxiliary to the purposes of such lease, the rights of the lessee or tenant under such lease or agreement shall be in nowise affected by the Inclosure.

98. Trees to be allotted with the Land.

And be it Enacted, That the timber-trees and other trees and underwood standing and growing upon any Land to be inclosed shall be allotted and go along with the Land whereon they respectively stand, and shall be deemed the property of the several persons to whom the same Land shall be respectively allotted, such person paying to the owner of such trees and underwood such sums of money for the same, and at such time or times and place or places, as the Valuer shall by writing under his hand direct; but if the parties who are to make such respective payments shall neglect or refuse to make the same accordingly, then it shall be lawful to and for the respective parties who shall be entitled to have and receive such payments to enter on the said Lands, and cut down, take and carry away to their own use the said trees and underwood in respect of which the said payments were respectively to be made to them at any seasonable time or times within One Year next after such neglect or default, doing as little damage on the Land as may be.

99. Cattle not to be depastured on Roads.

And be it Enacted, That no person shall graze or keep any horse, beast, cattle, sheep or swine upon any of the roads or ways which the Valuer shall order to be set out, and which shall be fenced on both sides for the space of Seven Years next after the execution of the award; and every owner of Land to be inclosed, his servants and labourers, and also every peace officer and parish officer of the parish in which the Land shall be situate for the time being, is hereby empowered to take and impound any such horse, beast, cattle, sheep or swine which shall be found so grazing as aforesaid, as cattle damage feasant: Provided always, That nothing herein contained shall prevent the proprietors of the Land which shall next adjoin the private

private roads and ways from depasturing their cattle thereon, so far as the frontage of their respective Land extends.

100. Alteration may be made in Allotments.

And be it Enacted, That it shall be lawful for the Valuer acting in any Inclosure, at any time before the confirmation of the award, with the approbation or by the direction of the Commissioners, to make any alterations which he may think right and expedient in the allotments or in the fences which he may have set out and ordered, or in the private roads he may have set out, or in any of the orders or directions relating thereto which he may have made in the matter of such Inclosure; and in case any person shall be injured by any such alteration on account of any expenses he may have incurred or otherwise, the Valuer shall ascertain and determine what recompense shall be made to him for such injury, and shall either pay the amount thereof out of the monies raised for the expense of the Inclosure, or shall direct by whom and in what manner such recompense shall be made; and in case of non-payment thereof, the same shall be recovered in the same manner as penalties and forfeitures are recoverable under this Act.

101. Report of the Valuer

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall as soon as conveniently may be, after the division and allotment of the Land to be inclosed shall be completed, draw up a report in writing, with a map thereunto annexed, which shall specify all the claims allowed and all the allotments, exchanges and partitions made in the matter of such Inclosure, and all roads, ways and works set out or directed to be made by the said Valuer; and such report shall contain all such particulars in relation to such allotments, roads, ways and works as are by this Act directed, and all such other directions and determinations authorized by this Act, as the said Valuer shall think proper for the purposes of the Inclosure; and the map to be annexed to such report shall comprise and show the Land to be inclosed and the Lands exchanged, and also the Lands in respect of which any allotments of the Land inclosed shall have been made, and shall distinguish by proper references the allotments made in respect of the several Lands respectively, and such other particulars as the Commissioners shall by any general or special instructions in relation to such report direct the Valuer to set forth therein; and such report shall be signed by the Valuer, and shall, together with the map thereunto annexed, be sent to the Office of the Commissioners.

102. Deposit of Report.

And be it Enacted, That as soon as the report of the Valuer shall have been sent to the Commissioners, they shall cause a copy of the same to be deposited at some convenient place within the parish in which the Land to be inclosed or some part thereof shall be situate, for the inspection of all persons interested in such Land; and shall forthwith

cause notice to be given where the said copy may be inspected; and shall also in such notice appoint some convenient place, and such times as they shall think necessary (the first not earlier than Twenty-one Days from the first giving of such notice), for holding a meeting to hear objections to any allotment, direction, determination or matter in the report; and the Commissioners or some Assistant Commissioner at such meeting as aforesaid, shall hear and determine any objections which may be then and there made to any such allotment, direction, determination or matter by any person interested therein, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting; and may, if they or he shall see occasion, direct any further valuation or survey of the Land or any part thereof, and take such other measures for ascertaining the justice and propriety of the determinations and directions of the Valuer, as to the Commissioners or Assistant Commissioner shall seem proper; and from time to time, if they or he shall see occasion, fix further meetings for the hearing and determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed, with regard to the original meeting; and when the said Commissioners or Assistant Commissioner shall have heard and determined all such objections, and made such inquiries as the Commissioners shall think fit in relation thereto, the Commissioners shall approve such report, or cause the allotments, directions, determinations and matters therein mentioned, or any of them, to be amended as they shall see occasion.

103. Award.

And be it Enacted, That after such proceedings as aforesaid shall have been had, and all such objections to such report (if any) shall have been finally disposed of, and such amendments (if any) shall have been made in the allotments, directions and matters therein contained as aforesaid, the Valuer, under the direction of the Commissioners, shall cause to be drawn up and engrossed on parchment the award in the matter of such Inclosure, which shall be signed by the Valuer, and shall describe the boundaries, if any, which shall have been ascertained and set out, under the provisions hereinbefore contained, and shall contain or set forth the report of the Valuer or the allotments, exchanges, partitions, directions and matters contained in such report if so approved as aforesaid, or such allotments, exchanges, directions and matters therein contained as the same shall have been amended as aforesaid, and shall annex to such engrossment the map referred to by such report; and the Commissioners shall confirm such award, with the date of such confirmation thereunto annexed, under their hands and seal.

104. Award conclusive.

And be it Enacted, That such confirmation as aforesaid shall be conclusive evidence that all the directions of this Act in relation

to

to such award, and to every allotment, exchange, partition and matter therein set forth and contained, which ought to have been obeyed and performed previously to such confirmation, shall have been obeyed and performed; and no such award shall be impeached by reason of any mistake or informality therein, or in any proceeding relating thereunto, or on account of any want of any notices or consents required by this Act, or on account of defects or omissions in any previous proceeding whatever in the matter of the Inclosure; and every allotment, exchange, partition, direction, matter and thing specified and set forth in such award as aforesaid, shall be binding and conclusive on all persons whomsoever.

105. Allotments to be in compensation of previous rights.

And be it Enacted, That the several allotments which shall upon any Inclosure under this Act be allotted to the several persons who shall be entitled to the same, shall when so allotted be and be taken to be in full bar of and satisfaction and compensation for their several and respective Lands, rights of Common, and all other rights and properties whatsoever, not excepted or reserved by this Act, or by the award in the matter of such Inclosure, which they respectively had or were entitled to in and over the said Lands immediately before such Inclosure; and that from and immediately after the confirmation of the award by the Commissioners, or at such earlier time as the Valuer, with the approbation of the Commissioners, shall by notice on the church-door direct, all rights of Common, and all rights whatever by the Inclosure intended to be extinguished, belonging to or claimed by any person whomsoever in or upon such Lands, shall cease, determine and be for ever extinguished.

106. Allotment Wardens.

And be it Enacted, That the allotment which upon any Inclosure under this Act shall be made for the labouring poor, shall be under the management of the incumbent of the parish, or ecclesiastical district, in which such allotment shall be situate (or the officiating minister for the time being nominated by the incumbent for that purpose), unless such incumbent or officiating minister shall object, the churchwarden, if there be but one, or (if there be more than one), one of the churchwardens for the time being of such parish, and two other persons who shall be rated to the relief of the poor in such parish, and such churchwarden, where there is more than one churchwarden, shall be yearly named, and such two other persons shall be yearly chosen at the same time and by the same persons and in the same manner as the overseers of the poor for such parish shall be chosen, and shall continue in office in like manner until the next election of overseers, or until others are named and chosen in their stead, and such incumbent (or officiating minister), churchwarden, and Two other persons for the time being, shall be styled "The Allotment Wardens" of the parish,

and shall manage and let the said allotment as hereinafter provided, and all things by this Act authorized to be done by such Allotment Wardens, may be done by any two of them, and in the event of the death or retirement from office of any one or more of the said Allotment Wardens, the surviving or continuing Wardens may act as if no such vacancy had happened.

107. Allotments how to be let.

And be it Enacted, That the Allotment Wardens shall from time to time let the allotment under their management in gardens, not exceeding half an acre each, to such poor inhabitants of the parish for one year, or from year to year, at such rents payable at such times and on such terms and conditions, not inconsistent with the provisions of this Act, as they shall think fit: Provided always, That the Commissioners may frame such regulations not inconsistent with the provisions of the Act for the letting of such allotments as aforesaid as they may think advisable, and such regulations shall be obligatory on the Allotment Wardens: Provided also, That the gardens so to be let shall be let free of all tithes or tithe rent-charge (if any), rates, taxes and assessments whatsoever, and shall, before the first letting thereof, and once at least in every Ten Years after such first letting, be valued by a competent person to be appointed by the Allotment Wardens for that purpose, who shall estimate the full rent which the same would be worth, to be let by the year for farming purposes, all tithes or tithe rent-charge, rates, taxes and assessments, being borne by the landlord, and shall verify such valuation by solemn declaration under the statute, and the rent at which the same gardens respectively shall be let, shall be not below the full yearly value of the land, according to the last of such valuations, and the Allotment Wardens shall, for the purposes of all rates and taxes, be deemed the occupiers of such allotment, and shall pay all rates and taxes, tithes and tithe rent charge (if any) in respect thereof.

108. Recovery of gardens on non-payment of Rent, &c.

And be it Enacted, That if the rent reserved upon the letting of any garden by the Allotment Wardens shall at any time be in arrear for Forty Days, or if at any time during the tenancy being not less than Three calendar Months after the commencement thereof, it shall appear to the Allotment Wardens, that the occupier of such garden shall not have duly observed the terms and conditions of his tenancy, or shall have gone to reside more than One Mile out of the parish, then and in every such case the Allotment Wardens shall serve a notice upon such occupier, or in case he shall have gone to reside out of the parish, shall affix the same to the door of the church of the parish, determining the tenancy at the expiration of One Month after such notice shall have been so served or affixed, and thereupon such tenancy shall be determined accordingly.

And

109. Possession, how to be recovered from Tenant holding over.

And be it Enacted, That in case, upon the determination of any such tenancy as aforesaid, the occupier of any such garden shall refuse to quit and deliver up possession thereof, or if any other person shall unlawfully enter upon, take or hold possession of any such garden, or of any part of such allotment, the Allotment Wardens may recover possession according to the mode prescribed by an Act passed in the second year of the reign of Her Majesty Queen Victoria, intituled, "An Act to facilitate the recovery of Possession of Tenements after due Determination of the Tenancy," in such and the same manner as if the said Wardens were landlords or a landlord, and as if such over holding occupier or other person were a tenant neglecting or refusing to quit and deliver up possession within the meaning of the last-mentioned Act.

110. Rents of Allotment how to be applied.

And be it Enacted, That all rents payable in respect of the allotment under the management of the Allotment Wardens shall be payable to such Wardens, who shall have the same remedies for recovery thereof by distress and otherwise, as if the legal estate of and in such allotment were vested in them under this Act, and such rents shall be applicable, in the first place, to the payment of all rates, taxes, tithes, tithe rent-charge, and of the rent-charge charged on such allotment under the provisions of this Act, and of all expenses incurred by the Allotment Wardens in the execution or their trusts and powers under this Act, and the residue, if any, of such rents shall be paid to the Overseers of the poor in aid of the poor-rates of the parish, and be applicable in the same manner as and subject to all the provisions concerning the monies assessed for the relief of the poor.

111. Allotments may be subdivided by supplemental order.

Provided always, and be it Enacted, That when any award so confirmed as aforesaid shall not have distinguished the several tenures of any of the Lands therein mentioned, or the different estates or titles for or under which the same shall be held, or shall have set out and awarded an aggregate allotment in any case in which there should have been set out and awarded several and distinct allotments, it shall be lawful for the Commissioners at any time within Two Years after the confirmation of the award, upon request in writing to them made by any person interested in any such aggregate allotment, to do all such acts as may be necessary for supplying such omission, and for subdividing such aggregate allotment, and for that purpose to examine witnesses, and proceed as if the said award had not been confirmed; and by any order or instrument under their hands and seal, to subdivide any aggregate allotment into separate allotments, and to distinguish and set out the allotments and Lands held by different tenures, and also the allotments and Lands held by, for

or under different estates or titles respectively, in the same manner as by this Act is authorized and required to be done in cases where such allotments and Lands are directed to be ascertained, distinguished and set out by the Valuer; and every such separate instrument shall have the same power and effect as if it were contained in the said award; and such instrument shall be engrossed and deposited with the award, and shall thenceforth be deemed to be part thereof to all intents and purposes; and all the expenses which shall be reasonably incurred in or about any such subsequent inquiry or separate instrument as aforesaid, and the engrossment thereof, shall be paid by the party who shall have requested the Commissioners to make and execute the same, or by his executors or administrators.

112. Regulated Pastures may be set out.

And be it Enacted, That it shall be lawful for the Commissioners on the application in writing of persons interested in any Land which shall be directed to be inclosed under this Act, whose interest shall exceed in value One-half of the whole interest in such Land (such application to be made at any time before the instructions to the Valuer shall have been delivered to him under the seal of the Commissioners as hereinbefore provided), to direct such Land or any part thereof to be converted into and used as a regulated pasture, to be stocked and depastured in common by the persons interested therein in proportion to their respective rights and interests, as the same shall be determined on the examination of claims; and in case part of such Land only shall be so directed to be stocked and depastured in common, the Valuer shall, subject to the instructions which shall be given to him under the provisions of this Act, ascertain and set out the part which shall be so used as a regulated pasture, and shall direct how and at whose expense the same shall be fenced and divided from the residue of such Land; and the Valuer acting in the matter of such Inclosure shall in every case where Land shall be so directed to be used as a regulated pasture, ascertain and allot the respective stints or rights of pasturage (specifying the respective numbers of the respective kinds of stock or animals to be admitted to the pasture in respect of such respective stints or rights of pasturage, with such option as to equivalent numbers of the respective kinds of stock and animals as he shall think just, and if he shall think fit, specifying the time during which such stock or animals may be kept on the pasture), as he shall adjudge and determine to be proportionate to the value of the respective rights and interests of the persons interested as aforesaid; and the Commissioners may frame such directions as they shall think fit for guiding the Valuer in the correct specification of such stints or rights: Provided always, That in every case in which part only of the Land subject to be inclosed under this Act shall be so directed to be used as a regulated pasture, and the residue thereof

to

to be divided and allotted in severalty, it shall be lawful for such Valuer, having regard to the convenience of the persons interested in such Land, to award to any such person either a stint or right of pasture, or an allotment in severalty only, or both a stint or right of pasture and an allotment in severalty, so as such stint or right only or such allotment only, or (as the case may be) such stint or right and allotment together, be in the judgment of the Valuer proportionate to the right and interest in respect of which the same shall be awarded: Provided also, That in any case in which it shall appear to the Valuer that the proportionate right or interest of any person is too small to be conveniently compensated by a stint or right of pasture, or that it is not practicable wholly to compensate such person by a stint or right of pasture, and the circumstances of the Inclosure will not admit, in the judgment of the Valuer, of an adjustment or compensation by an allotment in severalty, it shall be lawful for such Valuer, for the purpose of compensation or adjustment, to direct a sum of money to be paid to such person in lieu of or (as the case may require) in addition to the award of a right of pasture or stint; and such sum of money shall be paid out of the monies applicable to the payment of the expenses of the Inclosure.

113. Conversion into regulate Pasture to be deemed an Inclosure.

And be it Enacted, That all the provisions and powers hereinbefore contained in relation to public and private roads, ways and works, and all other the powers, provisions and directions, penalties and forfeitures applicable to the case of an Inclosure under this Act, and the provisions and directions concerning examination of claims, and the rehearing thereof, and the report of the Valuer, and the amendment of the matter thereof, and the award, and the confirmation and effect of the award shall be applicable to the case where the Land subject to be inclosed shall be directed to be used as a regulated pasture; and the word "Inclosure" shall in every case in this Act, where the context is not repugnant to such construction, include the conversion of Land subject to be inclosed into such regulated pasture, and the proceedings in relation thereto.

114. Rule of Rating to be established.

And be it Enacted, That in every case in which Land shall be directed to be converted into and used as regulated pasture under this Act, the Valuer acting in the matter of the Inclosure shall determine and direct the proportionate shares or aliquot parts which the respective owners, for the time being, of the several stints or rights of pasture shall be liable to pay of any sum of money which shall be raised by way of rate on such owners under the provisions of this Act; and such determination and direction, in case the same shall be approved, or as the same may be amended by the Commissioners, shall be for ever after observed in every rate to be made under the provisions of this Act, and shall be the rule also, according to which

the proportionate values of the stints shall be determined in taking the votes of the owners of stints under the provisions hereinafter contained.

115. Property of Soil of regulated Pastures.

And be it Enacted, That the right of soil of and in all Land which shall be converted into regulated pastures, shall, subject to the right of the Lord of the Manor to the mines and minerals where the same shall be reserved to him under this Act, and to the other rights given or reserved by this Act and the award in the matter of such Inclosure, be vested in the persons who, under the directions and determinations of such award, shall be the owners of the stints or rights of pasture therein, in proportion to the shares or aliquot parts which such stints shall be thereby declared liable to of any rate under this Act as tenants in common.

116. Election of Field Reeves.

And be it Enacted, That where any Land shall have been converted into a regulated pasture under the provisions of this Act, a meeting shall be called by the Commissioners of the owners of the stints or rights of pasture at such time after the confirmation of the award as the Commissioners shall, by notice on the church-door, appoint; and the major part in value of such owners present by themselves or their agent authorized in this behalf at such meeting shall elect a fit person or persons to be field reeve or reeves of such regulated pasture, and every field reeve so to be elected as aforesaid, or to be elected or re-elected at any subsequent meeting, shall continue in office until the expiration of Fifteen Days after the day of the annual meeting of such owners then next following, and no longer, unless he shall be re-elected at such annual meeting; and such owners shall ever after such first meeting meet for the election of a field reeve or field reeves on the First Monday in February in every year, and the owners assembled at such meetings shall from time to time fix, increase or diminish the salary or payment to be made to every such field reeve, and may appoint or authorize any field reeve to appoint and employ herds and assistants as such owners may think fit; and any such field reeve may be removed by Four-fifths in value of the owners of stints present by themselves or their agents authorized in this behalf at any meeting called for the purpose by Fourteen Days' notice on the church door, under the hands and seals of any Two Justices of the Peace; and in case any such field reeve shall die while he shall hold such office, or shall be removed as aforesaid, it shall be lawful for the majority in value of owners of stints or pastures present as aforesaid at any meeting, which upon such vacancy any Two owners may call, by Fourteen Days' notice on the church-door, to appoint a field reeve in his place, who shall hold the office until the expiration of Fifteen Days after the then next annaul meeting; and a certificate in writing, under the hands and seals of Two Justices

Justices of the Peace of the election of any field reeve (which certificate any Two Justices of the Peace are authorized, if they think fit, to give on the request and upon the declaration of any owner of such stints as the agent of any such owner present at the meeting at which the election shall have taken place), shall in all matters and proceedings whatsoever, in which any acts done by any field reeve in the execution of his office shall be in question, be evidence that he was duly appointed field reeve.

117. Duties of Field Reeves.

And be it Enacted, That the field reeve or reeves for the time being of every such regulated pasture shall, subject to such orders and instructions in writing as may from time to time be agreed on by the majority in value of the owners of such stints as aforesaid, at their yearly meetings, regulate the times in each year during which stock or animals shall be admitted to and excluded from such regulated pasture, and shall maintain and keep in order the fences, gates, ditches, drains, watercourses, embankments, jetties and weirs, or make any new fences, gates, ditches, drains, watercourses, embankments, jetties or weirs, and do all works necessary for the maintenance and improvement and good order of such regulated pasture; and shall and may distrain all stock and animals found thereon, contrary to the regulations of such pasture, and do all other acts for the maintenance and improvement of such regulated pasture, and the convenient use and occupation thereof, as the field reeve or reeves, subject to such instructions as aforesaid, may think fit; and where there shall be any buildings on such regulated pasture, or where the majority in value of the owners of stints at any yearly meeting shall direct that any buildings be erected thereon, such field reeve or reeves shall or may maintain and keep in repair such buildings, or cause such buildings to be erected in pursuance of such direction, and let the same from year to year, or under such instructions as aforesaid, for any term of years, and shall receive the rents thereof; and such rents shall be applicable in the first place to the same purposes as the rates hereinafter authorized to be raised on the owners of stints are made applicable, and the residue (if any) shall be paid to the owners of stints in proportion to the respective liability of their stints to such rates.

118. Provision for rateable increase or diminution of rights.

And be it Enacted, That when it shall appear to the majority in value of the owners of stints present at any annual meeting that the condition of the pasture would admit of an increase of the respective rights of pasture thereon, or would require a diminution of such respective rights, it shall be lawful for such majority of the owners so present to direct that the respective number of stock or animals to be admitted to the pasture in respect of the several rights be increased, or, as the case may be, diminished, rateably, to such extent as they shall think fit: Provided always, That in case it shall happen that the right of

any such owner shall not be sufficient to admit of a rateable increase or diminution, such annual money-payment shall be made to such owner in lieu of increase of his right, or, as the case may be, charged on such owner in lieu of the diminution of his right, as such majority shall award; or in case the person to or on whom such money-payment shall be awarded or charged shall think the sum awarded insufficient, or the sum charged excessive, then as any Two Justices of the Peace shall, upon the complaint of such person, and after summons of the field reeve or one of the field reeves of such pasture, (which may be in the form in the Schedule to this Act), and on hearing in a summary way the matter in difference, think reasonable, and order to be paid, and such order may be in the form in the Schedule to this Act; and every such money-payment payable in lieu of increase of right shall be paid annually by the field reeve out of the monies raised by the rate made for the expenses of such regulated pasture; and the money charged on any such owner shall be recoverable as a rate on owners of stints is hereby made recoverable; and all annual payments payable as aforesaid, shall be payable on the First Monday in February in every year.

119. Expenses to be raised by Rate.

And be it Enacted, That all salaries and allowances to field reeves and other persons and all expenses in and about the management of every such regulated pasture, and the repairs and erection of buildings thereon, under the directions of such meetings of owners as aforesaid, and all other expenses of such regulated pasture, shall be paid and defrayed by the owners of the respective stints therein; and for that purpose it shall be lawful for the field reeve, or one of the field reeves, under the directions of any such meeting of owners, from time to time to make a rate on the respective owners for such sum as the majority of owners present at such meeting shall think requisite; and every such rate shall be apportioned and paid by the owners according to the rule of rating established for such regulated pasture, and shall be paid to the field reeve on demand thereof; and in case the same shall not be paid within Fourteen Days after demand thereof, shall be recoverable by distress; and it shall be lawful for any field reeve to exclude from such regulated pasture the stock or animals of any owner or his tenant whose proportion of the rate shall be in arrear and unpaid for Fourteen Days after demand thereof, until the proportion of such rate so in arrear shall be fully paid; and any such demand or distress may be made of or on the occupier of any such stint as if the occupier were the owner liable to the payment of such rate, and such rate may be paid by any such occupier on demand thereof, and the money so paid by such occupier shall be deemed a payment on account of his rent, and shall be allowed by his landlord accordingly.

120. Power to apply the Act to Pastures already stinted.

And be it Enacted, That where any Land shall be already occupied as a gated or stinted pasture, and any of the persons interested in such gated or stinted pasture, whose interests shall not be less in value than

than Two-thirds of the whole interest therein, shall be desirous that such gated or stinted pasture should be subject to the provisions of this Act concerning regulated pastures, without being subject to the other provisions concerning lands subject to be inclosed under this Act, and shall make application in writing to the Commissioners to take proceedings for that purpose, it shall be lawful for the Commissioners, after making such inquiries as may appear to them necessary, to cause to be ascertained by any Valuer to be appointed or approved by the Commissioners for that purpose, the proportionate rights and interests of the several persons interested in such pasture, and also the respective rights of pasture to which, having reference to the productiveness of such gated or stinted pasture, the several persons interested therein may, in the judgment of such Valuer, be entitled, and such Valuer shall determine and direct, as hereinbefore mentioned, the proportionate liability to rates under this Act, of the occupiers of stints or rights of pasture, and in like manner as in case of the conversion into regulated pasture of Land subject to be inclosed upon an Inclosure under this Act; and the Commissioners shall hear, or cause to be heard by an Assistant Commissioner any objections to the determinations of claims by and to the report of the Valuer respectively, and approve or amend such determinations and such report respectively as they shall think fit; and the Valuer, under the direction or with the approval of the Commissioners, shall frame and cause to be engrossed an award, setting forth such draft award and the matter of such report, and the Commissioners shall confirm the same, with the date of the confirmation under their hands and seal; and from and after the confirmation of such award, such gated and stinted pasture shall be subject to all the provisions herein contained concerning Land subject to be inclosed, converted into and used as regulated pasture, and shall be rateable under such provisions according to the rule of rating as set forth in such award, and such award shall be as binding and conclusive as if the same had been made and confirmed on an Inclosure under this Act.

121. Expenses of application of Act to Pastures already stinted.

And be it Enacted, That all the expenses of or attending the proceedings for subjecting Lands already used as gated or stinted pasture, to the provisions of this Act, concerning Lands subject to be inclosed, converted into or used as regulated pasture, shall be paid and borne by the persons interested therein, in proportion to their respective liabilities to rates under this Act, according to the rule of rating established in respect of such gated or stinted pasture under this Act; and shall be paid at such time and place, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and shall be recoverable in such and the same manner as the expenses of an Inclosure made in pursuance of this Act.

122. Power to enter Land for Surveys, &c.

And be it Enacted, That for surveying and valuing any Land to be inclosed or otherwise dealt with under this Act, and for the other purposes of this Act, it shall be lawful for the Commissioners or an Assistant Commissioner or Valuer, or any person or persons to be appointed by such Commissioners, Assistant Commissioner or Valuer, at any time after application has been made to the Commissioners to sanction an Inclosure, or to certify to the expediency of an Inclosure, as the case may be, to make any survey, admeasurement, plan or valuation with assistants and servants, and at any time or times whatsoever, until the Inclosure, or other proceedings under this Act shall be completed, to enter into, view and examine, survey or admeasure all and every part of the Land to be inclosed or dealt with, and to do or cause to be done any act or thing necessary for putting this Act into execution.

123. Expenses of Inclosures.

And be it Enacted, That the allowances and payments to be made to and by the Valuer, and all other the expenses of every Inclosure, except the allowances and salaries to the Commissioner who is to have a salary and to the Assistant Commissioners, Secretary, Clerks, Messengers and officers of the Commissioners, and the travelling and other expenses of the Commissioners and Assistant Commissioners, and except any expenses which the Commissioners or Assistant Commissioner, which snall have been audited and approved by the Commissioners, or any court under the powers of this Act shall order to be otherwise paid, shall be borne and defrayed by the several persons interested in the Lands to be inclosed (except the Surveyors of Highways, Churchwardens and Overseers and persons to whom Lands shall be allotted for public purposes, in respect of the allotments hereinbefore authorized or directed to be made to them respectively), in such shares and proportions, and shall be paid at such time and place, or respective times and places, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and such Valuer shall give notice requiring payment of the respective shares and proportions of such expenses on the church-door, or deliver to the respective persons liable to the payment of such expenses, at least Fourteen Days before the time appointed for such payment, a copy of such order; and the Valuer shall from time to time make estimates of all such expenses, and raise the amount of such estimates at such times as he shall, with such approbation of the Commissioners, deem proper, either before or after the confirmation of the award.

124. Remedies in case of non-payment of Expenses.

And be it Enacted, That if any person shall refuse or neglect to pay his proportion of such expenses within such time and to such person as the Valuer shall appoint, it shall be lawful for the Valuer to recover the same, together with lawful interest, to be computed from the day on

on which the same ought to have been paid, by action at law in his own name, in any of Her Majesty's Courts of Record at Westminster; or it shall be lawful for him by warrant directed to any person whomsoever, to cause the same, with such interest thereon as aforesaid, to be levied by distress, or it shall be lawful for the Valuer, or any person authorized by him immediately after such neglect or refusal, to enter into and upon the premises so to be allotted to such person, and demise the same, or to demise any stint or right of pasture allotted to such person, and receive the rents and profits thereof respectively, until thereby or otherwise such share or proportion, with lawful interest as aforesaid, and also all the costs and expenses attending such entry upon, and demise and receipt of the rents and profits of the said premises, shall be fully paid and satisfied.

125. Power to make additional Rate.

Provided always, and be it Enacted, That if at any time after the allotments shall have been staked out it shall appear to the Valuer, either before or after the confirmation of the award, that the money to arise by any previous rates will not be sufficient to defray the expenses aforesaid, the deficiency shall, with such approbation of the Commissioners as aforesaid, be made up and raised from time to time by a rate to be made and levied upon the several persons interested in the Lands to be inclosed (except as aforesaid), in such shares and proportions, within such time, and to be paid to such persons as the Valuer shall from time to time direct; and in case any persons hereinbefore made subject to the payment of any money towards such expenses shall neglect or refuse to pay his share or proportion of any such rate within the time appointed for that purpose, or at any time after such demand, the same shall be levied and recovered in the manner directed by this Act with respect to the previous rate.

126. Commissioners may remove Valuers.

And be it Enacted, That if any Valuer chosen or appointed to act in the matter of any Inclosure or other matter under this Act shall, before his duties shall be fully performed, refuse to attend to or become by sickness or otherwise incapable to act in such matter, or by writing under his hand, desire to be discharged from the office of Valuer, or shall in the judgment of the Commissioners neglect his duties, or misconduct himself in his office, or become or be found incompetent or unfit to act as a Valuer under this Act, it shall be lawful for the Commissioners, by order under their hands and seal, to remove him from the office of Valuer; and if any Valuer shall be so removed, or shall die, it shall be lawful for the Commissioners, by order under their seal, to appoint a Valuer in his stead; and the Valuer so appointed shall have the same powers as if he had been chosen at a meeting of the persons interested in the Land in manner hereinbefore directed.

Clause No. 1. Valuer not to purchase Lands in the Parish for

And be it Enacted, That no Valuer who shall have acted in the matter of any Inclosure shall be capable of being a purchaser of any Land within the parish in which the Lands to be inclosed, or any part thereof,

Seven Years after the Award.

thereof, shall be situate, until the expiration of Seven Years after the confirmation of the award in such Inclosure.

127. Repayment to Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour and expenses of the Assistant Commissioners, and all other persons, if any, specially employed and paid by the Commissioners in or about any Inclosure, exchange, division, partition or other proceeding under this Act, by any order under their hands and seal, to order and declare that a sum, in such order to be mentioned, be paid to the Commissioners in respect of the salary, allowance and expenses of the Assistant Commissioners and other persons, if any, so specially employed in or about such Inclosure, exchange, division, partition or other proceeding; and the Commissioners shall by such order declare such sum to be charged on the persons interested in the Land to be inclosed, or to which such proceeding shall relate, in such shares as they shall think just, and shall appoint a time for payment thereof; and the same shall be raised in the same manner as the expenses of the Inclosure, or of subjecting the Land to the provisions concerning regulated pasture, are directed to be raised under this Act, and be deemed part of the expenses of the Inclosure or matter aforesaid, or in the case of an exchange, division or partition, in the same manner as the expenses of such exchange, division or partition, and when raised shall be paid to the Commissioners, who shall forthwith pay the same into Her Majesty's Exchequer, to be carried to the account of the Consolidated Fund.

128. Persons attending Meetings to pay their own Expenses.

Provided always, and be it Enacted, That the several persons interested in the Inclosure or other proceeding under this Act, and their respective agents, shall pay their own expenses whenever they shall attend any of the meetings to be held in the matter of any Inclosure.

129. Expenses of Witnesses.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, or in any inquiry into the expediency or inexpediency of any proposed Inclosure, where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof, and all other expenses (except the salary or allowance to any Assistant Commissioner) incurred in the settlement of any suit or difference, or in the hearing and determining any objection or matter whatever before the said Commissioners, or any Assistant Commissioner, to be paid by such parties interested in the production thereof respectively; or in the event of such suit, difference, objection or matter or in any such inquiry by or in such proportions as the Commissioners or Assistant Commissioner shall think fit and reasonable; and the Commissioners may, when they shall see occasion, require such security to be given by persons making application for any inquiry under this Act

Act for the payment by such persons of the expenses of or occasioned by such inquiry as the Commissioners may think fit.

130. Power to mortgage Allotments.

And be it Enacted, That it shall be lawful for the respective persons interested in allotments in severalty, or allotments of stints or rights of pasture respectively, to be made under this Act, being tenants for life or in tail, or for any other estate of freehold or inheritance, and also for the husbands, guardians, trustees, committees or attornies of any of the proprietors being under coverture, infants, lunatics, idiots, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, and for the trustees or feoffees for charitable, parochial or other uses, or the majority in number of them in respect of any Lands held by them in trust for any charitable, parochial or other uses (with the consent of the Commissioners testified in writing under their hands and seal), and for the incumbent of any ecclesiastical benefice, with the consent in writing of the Bishop of the diocese, and of the patron of such benefice from time to time, to charge their respective allotments with any money not exceeding as to any allotment in severalty Five Pounds per acre, towards their respective proportions of the Inclosure expenses, and for securing the repayment of such money with interest to mortgage or demise the said allotments unto or in trust for any person who shall advance any money for any term of years, but so that every such mortgage or demise be made with a condition to cease, or upon trust to be surrendered or assigned when the money thereby to be secured, with all interest thereon, shall have been fully paid; and so that in every such mortgage or demise which shall be made by or on behalf of any person entitled to any such allotment for the term of his natural life, there be contained a covenant to pay and keep down the interest of the money to be secured during his life, in such manner that no person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger arrear of interest than for Six Months previous to the time when the title of such person shall accrue or commence; and every Incumbent of a benefice by whom such mortgage or demise shall be made shall keep down the interest on the money to be secured, or on so much thereof as shall remain owing, and shall repay in reduction of the principal One-thirtieth part of the money originally secured at the expiration of the term of One Year from the time of making such mortgage, and a like sum at the expiration of each succeeding term of One Year, until the whole be repaid; and every such mortgage or demise shall be valid in the law for the purposes thereby intended; and every such mortgagee and his assigns shall have the like remedies in case of non-payment of the monies thereby secured, as in the case of other mortgages of the like nature.

131. Power to sell parts of Allotments.

And be it Enacted, That it shall be lawful for the Commissioners on application made to them in writing by any of the proprietors of allotments

allotments to be made by virtue of this Act, or by any of the husbands, guardians, trustees, committees or attornies of or for any of such proprietors being under coverture, infants, lunatics, idiots, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, or by any of the said proprietors being tenants in tail, or for life or by any trustees or feoffees for charitable, parochial or other uses, or by the majority in number of them, or by any incumbent of an ecclesiastical benefice, in right of which an allotment may have been made, and the Bishop of the diocese and the patron of such benefice, direct a sale of any part of any such allotment for raising a sum of money sufficient to defray the proportionable part of the expenses which shall in such rates be charged upon such parties, and of the expenses of making and completing such sale: Provided always, That in all cases in which the money so raised by any such sale shall not be equal to the money which might be borrowed or charged on such allotment as aforesaid, it shall be lawful for the proprietor, or the person hereinbefore authorized to direct a sale on behalf of the proprietor, part of whose allotment shall be sold as aforesaid, to charge his allotment with any sum not exceeding the difference.

132. Sales of parts of Allotments how to be made.

And be it Enacted, That such sales shall be made by the Valuer, with the approbation of the Commissioners in the same manner and subject to the same regulations as are hereinafter prescribed in respect of the sale of part of the Land subject to be inclosed towards defraying the expenses of the Inclosure; and every part of an allotment for which the full purchase-money shall be paid, shall be conveyed by the Commissioners at the expense of the purchaser as he shall appoint, and shall be inclosed and held by such purchaser in severalty: Provided always, That nothing herein contained shall enable the Commissioners to convey any allotments set out by them as copyhold or customary as freehold, but such copyhold or customary allotments shall be held by the purchaser thereof by, under and subject to the same rents, suits and services as such allotment would have been held, in case no such sale had been made.

133. Commissioners to receive and apply Purchase-money.

And be it Enacted, That the receipt of the Commissioners shall be a sufficient discharge to the purchaser for the said purchase-money; and such purchase-money shall be applied by the Commissioners in or towards defraying the costs and expenses for raising which such sale shall have been made; and the surplus (if any) shall be paid to the parties from whose allotments such sale shall have been so made respectively; and the shares of such of them as shall be tenants in fee-simple shall be paid to them respectively, and the shares of the other proprietors of such surplus money shall be applied and disposed of in manner hereinafter directed.

And

134. Application of Compensation-money of Parties under disabilities.

And be it Enacted, That when any money is under the provisions of this Act directed to be paid for the purchase of any timber or wood growing on any Land, which shall belong to any tenant for life or in tail, or to any feoffee in trust, executor or administrator, husband, guardian, committee or trustee, for or on behalf of any infant, idiot, lunatic, feme covert or cestuique trust, or to any person whose Lands are limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, or to any corporation not being legally and equitably entitled to sell and dispose of such timber and wood, it shall be lawful for the Valuer out of such money to defray the proportion (if any) of the Inclosure expenses which shall be charged upon the Land, or any land held under the same title, on which such timber or wood actually grew, and also, with the approbation of the Commissioners, to defray the expense of any permanent improvement, such as building, subdividing, dividing, draining or planting, and the like, which shall in the judgment of the Valuer be proper to be made, and shall be made under his direction upon any Land to be under the powers of this Act allotted to such parties.

135. Investment of Surplus when 200 *l.* or upwards.

And be it Enacted, That if the surplus of any such monies or the surplus of any monies to arise from the sale of part of an allotment for raising money for expenses, where the same shall not be paid to the proprietors under the directions hereinbefore contained, shall amount to or exceed the sum of Two hundred Pounds, the same shall, with all convenient speed, unless the Commissioners shall otherwise direct, under the provisions hereinafter contained, be paid into the Bank of England, in the name and with the privity of the Accountant-general of the Court of Chancery, to be placed to his account there, exparte the Commissioners, pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and the Endorsements thereon, as likewise the Endorsements on South Sea Bonds;" and pursuant to the general rules and orders of the said Court, and without fee or reward, according to an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out upon proper Securities any Monies not exceeding a Sum therein limited out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-General of the said Court;" and shall, when so paid in, there remain until the same shall, by order of the said Court made upon a petition, in a summary way, by the parties who would have been entitled to the rents and

profits of the said Land, be applied to the following purposes or any of them ; (that is to say)

The redemption or discharge of the Land Tax, or of any debt or other incumbrance affecting the same Land, or affecting other Lands standing settled therewith, to the same or the like uses or trusts ;

The purchase of other Land to be conveyed or settled upon the like uses or trusts, or such of them as shall be then existing, undetermined or capable of taking effect.

136. Payment of Dividends in the mean-while.

And be it Enacted, That in the mean time, and until such application shall be made, the said money may, by order of the said Court to be made upon the like petition, be invested by the said Accountant General in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities, or of Government Securities ; and the dividends or interest of such Annuities or Securities shall from time to time be paid by order of the said Court to the parties who would, for the time being, have been entitled to the rents and profits of the Lands so to be purchased, conveyed and settled.

137. Application of money under 200*l.*

And be it Enacted, That in case the surplus of any such monies as aforesaid shall be less than the sum of Two hundred Pounds, and shall exceed or amount to the sum of Twenty Pounds, the same shall, at the option of the parties who for the time being would have been entitled to the rents and profits of the said Land, or their Guardians or Committees in case of infancy, idiotcy, lunacy or other incapacity, with the approbation of the Commissioners, to be signified in writing under their seal, be paid into the Bank of England, in the name and with the privity of the said Accountant-general of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option and with the like approbation to Two Trustees, to be nominated by the said parties who for the time being would have been entitled to the rents and profits of the said Land as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be signified in writing under the hands (or common seal, as the case may be) of the nominating parties, and under the seal of the Commissioners ; and in any case in which such monies shall amount to or exceed the sum of Two hundred Pounds, the same if the Commissioners shall so think fit and direct, shall in like manner be paid to Trustees to be nominated and approved as aforesaid ; and the money so paid to such Trustees, and the dividends and produce arising therefrom, shall be by them applied in like manner as is hereinbefore directed, with respect to money so to be paid into the Bank of England, but without obtaining

ing or being required to obtain any order of the said Court touching the application thereof.

138. Under 20*l.*

And be it Enacted, That in case the surplus of any such monies as as aforesaid shall be less than Twenty Pounds, the same shall be paid to the parties for the time being entitled to the rents and profits of the said Land for their own use and benefit; or in case of infancy, idiotcy, lunacy or other incapacity, then such money shall be paid to their Guardians, Committees or Trustees for the use and benefit of the parties respectively entitled thereto.

139. Sale of Land by Valuer for Expenses.

Provided always, and be it Enacted, That in case the Valuer acting in the matter of any Inclosure shall under the instructions hereinbefore required in this behalf proceed to raise all or any part of the expenses of the Inclosure by sale of part of the Land proposed to be inclosed, such Valuer shall set out such parts of the Land to be inclosed as he shall judge sufficient in value to defray the expenses aforesaid, and shall from time to time, as he shall find expedient, sell and dispose of the same by public auction or by private contract, with the approbation of the Commissioners; and the purchase-monies to arise by such sales shall be paid into the hands of the Commissioners, or as they shall direct, and shall be by them applied in discharging the said expenses.

140. Conveyances to be made by Commissioners.

And be it Enacted, That upon every sale to be made by the Valuer under the provisions of this Act, the Commissioners shall sign and deliver to each purchaser a receipt for his purchase-money, which shall be a sufficient discharge for the same; and upon receipt of the whole purchase-money for any of the Lands which shall be sold as aforesaid, the Commissioners shall convey such Lands and the fee-simple and inheritance thereof in possession, by conveyance under their hands and seal to such uses, and in such manner as such purchaser shall direct; and after such conveyance, the premises conveyed shall be freehold of inheritance, and shall be held to the uses and in manner expressed by such conveyance; and any such conveyance may be to the effect set forth in the Schedule to this Act, and shall be evidence of the regularity of the sale in pursuance of which such conveyance shall be made.

141. Application of purchase-monies.

And be it Enacted, That all such purchase-monies as shall be from time to time raised or received by the Commissioners by such respective sales as aforesaid, shall, after payment of the charges and expenses attending such respective sales, be paid and applied by the Commissioners towards the expenses of the Inclosure; and the respective purchasers or other persons paying the same, shall not in any manner be liable to see to the application, or be answerable for any misapplication thereof.

142. Power to sell instead of allotting Land.

And be it Enacted, That when under such instructions as hereinbefore required in that behalf, the Valuer shall have been directed to sell the whole of any Land proposed to be inclosed under this Act, except the part thereof directed to be appropriated for public purposes, the Valuer shall and may sell and dispose of the whole of such Land, except as aforesaid; and such sale, and the conveyance thereof to the purchasers, shall be made in all respects in the same manner as hereinbefore directed with respect to the sale of part of the Land proposed to be inclosed for payment of expenses; and the Commissioners shall in like manner receive the purchase-money to arise from such sales, and their receipt shall in like manner be a sufficient discharge to the purchaser for the same; and the Commissioners shall invest such purchase-money, after payment thereout of the expenses of the sale and of the Inclosure in the name of any corporation as Trustees, or in the names of Three or more Trustees, to be named or approved by the Commissioners for that purpose, in the purchase of Three Pounds per Centum Consolidated Bank Annuities, or Three Pounds per Centum Reduced Bank Annuities, and shall in and by the award cause to be apportioned and declared the shares of and in such annuities to which the several persons interested in the Land from the sale whereof the same shall have arisen shall be entitled, and in respect of what Lands or Estates they shall be entitled, in such manner as hereinbefore directed in case of allotments of Lands by the Valuer, or as near thereto as circumstances will admit; and shall also direct and declare that the dividends accruing from time to time in respect of such annuities, or the respective shares thereof, shall be applicable and applied by the Trustees to the payment of quit-rents, land-tax, or any other rent, tax, rate or annual charge, charged or to become charged upon any Lands remaining unsold, in respect of which the persons so declared entitled shall have been respectively declared to be entitled to such shares; and the residue, if any, of the dividends in respect of such shares shall be payable in the same manner as the rents of such Land would from time to time be payable; and in case any person so declared entitled shall not be entitled in respect of any Land remaining unsold, the dividends in respect of the share of such person in such annuities shall belong to the persons who, for the time being, would have been entitled to the Land or right in respect of which such share of annuities shall have been allotted, in case the same had not been sold or extinguished; and such shares shall be considered in equity as real estate, and be transmissible accordingly: Provided always, That where it shall be shown to the satisfaction of the Trustees or Trustee for the time being of such annuities, that any person shall be entitled to or shall have acquired an absolute interest in any share thereof, such share may be transferred to such person, or as he may direct; and in such final award shall be contained such powers for the appointment of new Trustees from time to time, by such

such persons, and in such manner, and such directions for the indemnity and security of the Trustees, and for defraying out of the trust fund the expenses of the execution of the trust, as the Commissioners shall think fit.

143. Notice may be given to reversioners.

And be it Enacted, That the Commissioners, before authorizing or certifying the expediency of any inclosure or determining any claim or matter, or approving any report or award, or in any other stage of the proceedings on any Inclosure, or of the proceedings for subjecting any gated or stinted pasture to the provisions of this Act, concerning regulated pastures, if they shall see occasion, may require notice to be given in any such manner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any Lands, or to any other person to whom they may think notice ought to be given; and may by themselves, or by some Assistant Commissioner, hear and determine any objection which may be made by the person so next in remainder, reversion or expectancy.

144. Copies of Award to be made and deposited.

And be it Enacted, That Two copies of every confirmed award shall be made and sealed with the seal of the said Commissioners, and One such copy shall be deposited with the Clerk of the Peace of the county in which the Lands inclosed shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapelwardens for the time being of the parish in which the Lands or the greater part thereof shall be situated, to be kept by them and their successors in office, with the public books, writings and papers of the parish, or shall be deposited with such other fit persons as the Commissioners shall approve; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of Two Shillings and Sixpence for such inspection, and after the rate of Three-pence for every Seventy-two words contained in such copy or extract; and all such copies of and extracts from any such copy of any confirmed award, as shall be furnished by the Clerk of the Peace, shall be signed by the said Clerk of the Peace or his deputy, purporting the same to be a true copy; and every such copy and extract so signed shall be received in evidence without further proof thereof; and every recital or statement in such confirmed award, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated.

145. Exchanges may be made of Land not subject to be inclosed.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of the persons interested, according to the definition hereinbefore contained, in Lands not subject to be inclosed

inclosed under this Act, or in Lands subject to be inclosed under this Act as to which no proceedings for an Inclosure shall be pending, and who shall desire to effect an exchange of Lands in which they respectively shall be so interested, to direct inquiries whether such proposed exchange would be beneficial to the owners of such respective Lands; and conducive to the more productive cultivation thereof respectively, and in case the Commissioners shall be of opinion that such exchange would be beneficial, and conducive to the more productive cultivation of the lands to be exchanged and that the terms of the proposed exchange are just and reasonable, they shall, unless notice of dissent to the proposed exchange shall be given under the provision hereinafter contained, cause to be framed and confirmed, under the hands and seal of the Commissioners, an order of exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the Lands given and taken in exchange by each person so interested respectively, and a copy of such order, under the seal of the Commissioners, shall be delivered to each of the parties on whose application the exchange shall have been made; and such order of exchange shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the Land taken upon every such exchange shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the Lands given on such exchange would have stood limited or been subject to in case such order had not been made; and all expenses with reference to such order and exchange, or the inquiries in relation thereto, or to any proposed exchange, shall be borne by the persons on whose application such order shall have been made, or such inquiries undertaken: Provided always, That no exchange shall be made of any land held in right of any church or chapel, or other ecclesiastical benefice, without the consent, testified in writing, of the Bishop of the diocese and the patron of such benefice.

146. Division of intermixed Lands.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of any number of persons who shall be separately interested in parcels of Land not subject to be inclosed under this Act, or of Land subject to be inclosed under this Act as to which no proceedings for an Inclosure shall be pending, so intermixed or divided into parcels of inconvenient form or quantity that the same cannot be cultivated or occupied to the best advantage, but forming together a tract which may be divided into convenient parcels, and who shall desire to have the whole of such tract divided into convenient parcels to be allotted in lieu of the old parcels, to direct an inquiry whether such proposed division and allotment

allotment would be beneficial to the owners of such Lands, and conducive to the more productive cultivation thereof; and in case the Commissioners shall be of opinion that the proposed division and allotment would be beneficial, and conducive to the more productive cultivation thereof, they shall, unless notice of dissent from the proposed division and allotment shall be given under the provisions hereinafter contained, cause to be framed an order for the division or allotment thereof accordingly, with a map or plan thereunto annexed, in which shall be specified as well the parcels which the several persons, on whose application such order shall have been made, were respectively interested in before such division and allotment, as the several parcels allotted to them respectively by such order, and such order shall be confirmed under the hands and seal of the Commissioners; and a copy of such order, sealed with the seal of the Commissioners, shall be delivered to each of the parties on whose application the division and allotment shall have been made, and such order of division shall be good in the law to all intents and purposes whatsoever, and shall in no wise be liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the parcels of Land taken by the persons interested under such division shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the several Lands which the persons taking the same shall have relinquished or lost on such division would have stood limited to, for or upon, or been subject to in case such order had not been made; and all expenses with reference to any such order, division and allotment, or the inquiries in relation thereto, or to any proposed division or allotment, shall be borne by the persons on whose application such order shall have been made or such inquiries undertaken.

147. Inconvenient allotments for the poor and public purposes may be exchanged for land more convenient.

And be it Enacted, That where, under the powers of any Inclosure Act, any allotment shall have been made in trust for the poor inhabitants of any parish, or of any class of such poor inhabitants, or in trust to be leased, used or enjoyed, to or by or upon any other trusts, for the benefit of such poor inhabitants, or for the purposes of exercise and recreation, or for any other public or parochial purpose, and it shall appear to the Commissioners that such allotment, by reason of its distance from the dwellings of such poor inhabitants, or from the nature or quality of the soil or otherwise, shall not be convenient or suitable for the purposes for which the same shall have been made, it shall be lawful for the Commissioners, upon the application, in writing, of the churchwardens and overseers of the poor of the parish in which such allotment shall be situate, and of the person interested in land more convenient or suitable for the purposes for which such allotment shall have been made, and who may be willing to give such land in

exchange for such allotment, in case the Commissioners shall be of opinion that such exchange would be beneficial to the poor inhabitants or other persons for whose benefit, or more suitable to the purposes for which, such allotment was made, to cause to be framed and to confirm an order of exchange of such allotment for such other land as aforesaid ; and the provisions herein contained concerning exchanges shall apply to such allotment as if such churchwardens and overseers were the persons interested in such allotment.

148. Clause (E.) Notices of exchanges and divisions to be given.

Provided always, and be it Enacted, That no such order of exchange or order of division and allotment as aforesaid shall be confirmed by the Commissioners, until notice shall have been given by advertisement in Three successive Weeks of such proposed exchange or division and allotment, and Three calendar Months shall have elapsed from the publication of the last of such advertisements; and in case before the expiration of such Three calendar Months any person entitled to any estate in or to any charge upon any land included in such proposed exchange or division and allotment, shall give notice in writing to the Commissioners of his dissent from such proposed exchange or division and allotment, as the case may be, the Commissioners shall not confirm an order for such exchange or such division or allotment, unless such dissent shall be withdrawn, or it shall be shown to the Commissioners that the estate or charge of the party so dissenting shall have ceased.

149. Expenses of Exchanges and Divisions.

And be it Enacted, That if any difference shall arise touching the said expenses in relation to any exchange, division, allotment, orders or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the Commissioners to certify under their hands and seal the amount to be paid by such person ; and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any Two Justices of the Peace for the county or other jurisdiction wherein the Land shall be situate, such Justices upon the non-payment thereof are hereby required by warrant under their hands and seals to cause the same to be levied by distress.

150. Commissioners may remedy defects and omissions of awards under Local Acts of Inclosure, or under 6 & 7 Will. 4, c. 115.

And be it Enacted, That where any award already made and executed, or hereafter to be made and executed in pursuance of any local Act of Inclosure, or in pursuance of an Act passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled, "An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales," shall not have duly distinguished the several tenures of all the Lands thereby awarded or allotted, or of any other Lands of which the tenure ought to have been distinguished in or by such

such award, or the different estates or titles for or under which any Lands therein mentioned should be held, or shall not have duly distinguished the Lands which, after such award, should remain subject to all or any tithes, and the Lands which should be discharged from all or any tithes, or where by any such award an aggregate allotment shall have been set out and awarded in any case in which several and distinct allotments ought to have been set out and awarded, in every such case, and in every other case in which it shall appear to the Commissioners that injustice or inconvenience shall have arisen from inaccuracy, confusion or omission in any such award, it shall be lawful for the Commissioners, upon the application in writing of any person interested in the Lands to which such award may relate, or of any person prejudiced by the inaccuracy, confusion or omission in such award, to make such inquiries and take such evidence by themselves or by an Assistant Commissioner, as they shall think fit, and by an order under their hands and seal, to amend such award, and to distinguish the several tenures of the Lands thereby allotted and awarded, and the different estates or titles for or under which the same should be held, and to distinguish the Lands which should be discharged from all or any tithes, and the Lands which should remain subject to all or any tithes, and to subdivide aggregate allotments into separate allotments, and to distinguish the tenures or titles thereof, or the Lands or rights in respect of which they were respectively made, and generally to make or give such declarations or directions as may appear necessary to supply any omission and rectify any inaccuracy or confusion in such award; and such order of the Commissioners shall have the same force and effect as if the allotments, directions and declarations therein contained had been duly made and contained in the original award in addition, or as the case may require, in substitution for the parts thereof to which such amendments may relate, and all expenses with reference to such order as last aforesaid, and of all inquiries in relation thereto, or to any proposed amendment of any such award, shall be borne by the persons on whose application such order shall be made or such inquiries undertaken.

151. Commissioners may revive powers under local Inclosure Acts lost by lapse of time or otherwise.

And be it Enacted, That where under any Local Act of Inclosure, the powers and authorities originally vested in the Commissioner or Commissioners acting under any such Local Act, or any such power or authority shall not have been fully executed, according to the intent of such Local Act, and shall have been lost or become incapable of being executed by reason of the neglect or omission to execute the same, or to take some proceeding necessary to the due execution thereof within the time limited in that behalf by such Local Act, or from any other cause whatsoever, it shall be lawful for the Inclosure Commissioners for England and Wales, by any order under their hands and seal, to authorize the Commissioner or Commissioners appointed by or

acting under the authority of such Local Act, to execute and to carry into effect the powers and authorities originally vested in such last-mentioned Commissioner or Commissioners, or in any previous Commissioner or Commissioners under such Local Act, in the same manner as if such powers and authorities had not been lost or become incapable of being executed, or as near thereto as lapse of time and other circumstances may permit, and subject to such conditions and restrictions as the justice of the case may appear to require, and in and by such order to direct any act or proceeding to be done or taken in substitution for any act or proceeding which shall have been required or directed by such Local Act, and which shall have become incapable of being done or taken, by lapse of time or other circumstances; and all proceedings, adjudications, orders, directions and acts taken, made and done by the Commissioner or Commissioners under any Local Act in pursuance of any such order as aforesaid of the Inclosure Commissioners for England and Wales, shall have the same force and effect as if the same had been duly authorized by such Local Act; and the expenses of such order, and of the inquiries in relation thereto, shall be paid by the Commissioner or Commissioners acting under such Local Act, and shall be deemed expenses under the Inclosure by such Local Act authorized.

152. Commissioners may appoint person to complete proceedings in an imperfect Inclosure.

And be it Enacted, That where the powers and authorities of any Local Act of Inclosure shall not have been fully executed and performed, whether the same shall or shall not have been lost or have become incapable of being executed from lapse of time or otherwise, and there shall be no Commissioner acting under such Local Inclosure Act, or in case from any other cause any of the persons interested in the Land to which such Local Act shall relate, shall be desirous that the powers and authorities of such Act should be executed, and the proceedings thereunder completed under the direction of the Inclosure Commissioners for England and Wales, it shall be lawful for the said Commissioners, by order under their hands and seal, upon the application in writing of the major part in value of the persons interested in the Lands subject to be inclosed under such Local Act, to appoint any person to execute the powers or authorities of such Local Act, in the place of the Commissioner or Commissioners by such Act appointed or authorized to be appointed, and to complete the proceedings under the same; and it shall be lawful for the said Inclosure Commissioners for England and Wales, by such order as aforesaid, or by any supplemental or other order, to authorize the person so appointed to execute and to carry into effect any powers or authorities originally vested in any Commissioner or Commissioners under such Local Act, and which may have been lost or become incapable of being executed, and to give such other directions in relation thereto as under the provision hereinbefore contained might have been given to the Commissioner

sioner or Commissioners appointed by or acting under a Local Act; and the person so appointed by the Commissioners shall and may complete the proceedings under such Local Act, and make an award therein, and shall have such and the like powers and authorities in all respects as the Commissioner or Commissioners originally appointed by or acting under such Local Act would have had, if he or they had continued to act; and it shall be lawful for the Inclosure Commissioners for England and Wales, by order under their hands and seal, to remove any person so appointed, and upon such removal, or in case any person so appointed shall die or desire to be discharged from his office, before the proceedings in such Inclosure shall be completed, from time to time to appoint any other person in his stead, with all such powers and authorities as aforesaid; and the expenses of such orders of the Commissioners, and of all proceedings in relation thereto, shall be expenses in the Inclosure, and raised in the same manner as other expenses may by such Local Act be authorized to be raised.

153. Clause (F.) Commissioners to give notice before proceeding to amend Awards under local Act.

Provided always, and be it Enacted, That the Commissioners shall not in any case proceed to amend any award under any local Act of Inclosure, or under the said Act of the seventh year of the reign of King William the Fourth, or to authorize the execution of any power or authority under any such local Act, which shall have been lost or become incapable of being executed as aforesaaid, or to authorize any person to be by them appointed as aforesaid to execute the powers or authorities of any local Act in the place of the Commissioner or Commissioners appointed under such local Act, until notice of the application to the Commissioners to amend such award, or to authorize the execution of such powers or authorities, or to authorize any person to be by them appointed as aforesaid, shall have been given by advertisement in Four successive Weeks; and in case, within Two calendar Months after the publication of the last of such advertisements, One-fourth part in number or value of the persons interested, according to the definitions hereinbefore contained in the Land to which the award so proposed to be amended, or the part thereof proposed to be amended, shall relate, or in the land to be affected by the exercise of such powers or authorities, shall give notice in writing to the Commissioners of their dissent from such application, the Commissioners shall not proceed further on such application.

154. Commissioners may confirm awards or agreements made under supposed authority of 6 & 7 Will. 4, c. 115.

And be it Enacted, That where, by any award or agreement expressed to be made under the authority of the said Act of the seventh year of King William the Fourth, intituled, "An Act for facilitating the Inclosure of Open and Arable Fields in England and Wales," any moors, commons or waste Lands or other Lands not subject to be inclosed under the provisions of such last-mentioned Act shall have been

been inclosed or apportioned and allotted, and the Lands so inclosed or apportioned and allotted shall be within the definition of Lands subject to be inclosed under this Act, it shall be lawful for the Commissioners, upon the application of any person interested in any Land so inclosed or apportioned and allotted, to make such inquiries in relation to such award or agreement as the Commissioners shall think fit, and if it shall appear to the Commissioners that the rights and interests of all parties interested in the Lands expressed to be inclosed or apportioned and allotted by such award or agreement, shall have been duly provided for and compensated thereby, or might be duly provided for and compensated thereby, if such award or agreement were confirmed, or amended and confirmed as hereinafter mentioned, it shall be lawful for the Commissioners, by any order under their hands and seal, to confirm such award or agreement, or to amend the same, as the justice of the case and the rights and interests of the parties may appear to the Commissioners to require, and to confirm the same, with the amendments specified in such order, as the Commissioners shall think fit, and every award and agreement so confirmed shall, with the amendments, if any, which shall have been made by such order, have the same force and effect as a final award under the authority of this Act; and all expenses with reference to such order as last aforesaid, and of all inquiries in relation thereto, or to any proposed confirmation of any such award or agreement, shall be borne by the persons interested in the lands by such award or agreement, inclosed or apportioned and allotted in such proportions as the Commissioners shall direct

CLAUSE No. 2.
Power to reduce the number of Trustees under local Act where a sufficient number of Persons qualified cannot be found.

And be it Enacted, That where, under any local Act of Inclosure or under any award made under the authority of any local Act of Inclosure, provision shall have been made for the election from among persons having certain qualifications in respect of property or otherwise of a number of Trustees or other functionaries for making or maintaining works on the Lands inclosed, or for any other local functions, and it shall appear to the Commissioners that, by reason of alterations in the state of property or otherwise, persons cannot be found according to the qualifications required by such local Act of Inclosure to fill up the number of Trustees or other functionaries required by such local Act, it shall be lawful for the Commissioners, after such inquiries as they shall think fit, upon the request and at the expense of any persons interested in the works to be made or maintained, or in the functions to be performed by such Trustees or functionaries, by order under the seal of the Commissioners, to declare that any such lesser number in such order to be mentioned of Trustees or other functionaries may be from time to time elected for the purposes, or be competent to exercise and perform the powers and functions in such local Act of Inclosure, required or authorized to be exercised by the number of Trustees or other functionaries directed

directed to be elected by such local Act, and such lesser number shall be from time to time elected, and shall be competent to exercise and perform such powers and functions accordingly.

155. Penalties and Forfeitures, how recoverable.

And be it Enacted, That all penalties and forfeitures imposed by this Act, or which shall be imposed by the Commissioners or Assistant Commissioner acting in the matter of any Inclosure or other proceeding under or by virtue of the authority of this Act, shall be levied and recovered before any Two Justices of the Peace for the county in which the Land subject to be inclosed, or to which such other proceeding shall relate, shall be situate, and not interested in the matter in question, for which purpose it shall be lawful for any such Justice of the Peace upon complaint made to him to summon the party accused, and the witnesses on both sides; and upon the appearance or contempt of the party accused, to examine such witnesses upon oath (which oath any such Justice is hereby empowered to administer), and upon such evidence to give judgment accordingly, and to condemn the party accused (proof of the accusation being made by One or more witness or witnesses as aforesaid) in such penalties and forfeitures as the offenders shall have incurred, and to levy such penalties and forfeitures by distress, together with reasonable costs; all which penalties and forfeitures, the application whereof is not particularly directed by this Act, shall and so soon as the same shall be levied, be paid and applied to and for such uses, intents or purposes as the Commissioners in and by any writing under their hands and seal shall order, direct or appoint.

156. Distress, how to be made.

And be it Enacted, That when in this Act any sum of money, whether in the nature of penalty or otherwise, shall be directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the surplus monies arising from such sale, after satisfying such sum of money, and the costs and expenses attending the distress and sale, shall, on demand, be rendered to the party whose goods and chattels shall have been distrained.

157. Distress not unlawful for informality.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser, ab initio, on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

158. Notices, how given.

And be it Enacted, That all notices by this Act directed to be given by advertisement shall be given by an advertisement to be inserted in some newspaper or newspapers printed or usually circulated in the county in which the Land subject to be inclosed, or other Land to which such notice shall relate shall be situate, and all notices directed to be given on the church-door shall be by writing, under the hand of the party giving such notice, to be affixed on the principal outer door of the church of every parish and ecclesiastical district in which the Land subject to be inclosed or other land to which such notice shall relate, or any part thereof, shall be situate, on Sunday before Divine service, or where in any such parish or ecclesiastical district there shall be no church, then to be affixed in some conspicuous place of such parish or ecclesiastical district on Sunday, before Ten of the clock in the forenoon; and all notices necessary to be given by the Commissioners or any Assistant Commissioner or Valuer acting in the matter of any Inclosure (the mode of giving which is not hereby particularly directed) shall be by either or both of the methods aforesaid, as the Commissioners or Assistant Commissioner or Valuer respectively shall think fit; and all notices so given shall be deemed sufficient notices to all persons concerning all matters and things to which such respective notices shall relate.

159. Advertisements and Awards free of duty.

And be it Enacted, That no advertisement inserted by direction of the Commissioners or any Assistant Commissioner acting in the matter of any Inclosure, in the London Gazette or in any newspaper for the purpose of carrying into effect any provision of this Act, and no agreement, award, bond or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty.

160. Persons giving false evidence, &c., to be guilty of a Misdemeanor.

And be it Enacted, That if any person under the provisions of this Act shall wilfully give false evidence, or shall make or subscribe a false declaration for the purposes of this Act, or shall wilfully refuse to attend, in obedience to any lawful summons of the Commissioners or an Assistant Commissioner or Valuer, or to give evidence, or shall wilfully alter, withhold, destroy or refuse to produce any book, court-roll or writing, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the Commissioners or Assistant Commissioner or Valuer, he shall be deemed guilty of a Misdemeanor.

161. Limitation of actions.

And be it Enacted, That no action or suit shall be commenced against any Commissioner, Assistant Commissioner, Justice of the Peace, Valuer, or other person, for any thing done under the authority of this Act, until Twenty-one Days' notice thereof shall have been

been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after Three calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action shall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before Twenty-one Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the Jury shall find a verdict for the defendant therein; or the Court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall have costs, charges and expenses as between attorney and client.

162. Proceedings not to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the Commissioners or any Assistant Commissioner under the authority of this Act, except as hereinbefore provided, or any proceeding to be had, touching any offender against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process, into any of Her Majesty's Courts of Record at Westminster or elsewhere.

163. Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "person" shall mean and include the Queen's Majesty, and any body corporate, aggregate or sole, as well as an individual; any word importing the singular number only, shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; any word importing the masculine gender only, shall mean and include a female as well as a male; the word "Inclosure" shall extend to and include division or allotment, and the words "local Act of Inclosure" shall extend to and include any local Act of which inclosure, division or allotment of Lands shall have been one of the objects or purposes; the word "Manor" shall extend to and include any hundred, honour or lordship; the word

"Land" shall mean and include all messuages, lands and corporeal tenements and hereditaments; the word "county" shall include any riding or other like division of a county, and any liberty, city or place having a separate commission of the peace; the word "parish" shall include any township or vill, or extra-parochial district or place; the word "church" shall mean and include any chapel where there is no church; the word "school-house" shall mean any parochial or charitable school-house; the words "the Commissioners" shall mean the Inclosure Commissioners for England and Wales; and the words "Assistant Commissioner" shall mean the Assistant Commissioner appointed by the Inclosure Commissioners.

164. Act to extend only to England and Wales.

And be it Enacted, That this Act shall extend only to England and Wales.

165. May be amended in present Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session.

THE

THE SCHEDULE

To which this ACT refers.

FORM of Conveyance by Commissioners [in the matter of the Inclosure.]

We, the Inclosure Commissioners for England and Wales, by virtue of an Act of Parliament passed in the year of the reign of Queen Victoria, intituled [here insert the title of this Act], and in consideration of the sum of paid into our hands by being the purchase-money of the hereditaments hereinafter described, do by these presents convey unto his heirs and assigns, all that [here describe the premises], with the appurtenances; to hold the same unto the said his heirs and assigns [here state the uses, trusts or purposes of the conveyance, as the case may require.] In witness whereof we have hereunto affixed our seal this day of

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FORM of Summons.

To of in the County of Field Reeve of

To wit. } I, Esquire, one of Her Majesty's Justices of the Peace in and for the said County of do hereby summon you personally to be and appear before such Two of Her Majesty's Justices of the Peace as shall be present at in the said County, on the day of next, at the hour of in the noon of the same day, to answer the complaint of A. B., that [he is refused reasonable compensation for diminution of his right of pasture in the regulated pasture in], or [that the said A. B. is charged with an excessive payment for increase of his right of pasture in the regulated pasture of], otherwise the complaint will be proceeded with as if you had appeared. Given under my hand and seal this day of in the year

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FORM of ORDER.

To wit. } The Order of and Esquires, Two of Her Majesty's Justices of the Peace in and for the said County, made at in the said County of the day of in the year

WHEREAS complaint hath been made to us by A. B. for that he [state the complaint as in the summons]. We do declare, that [the yearly sum of is a reasonable compensation for the diminution of the right of pasture of the said A. B.] or [the yearly sum of is a reasonable payment for increase of the right of pasture of the said A. B.] And do order that such yearly sum be paid according to the directions of the statute in that behalf. Given under our hands and seals this day of in the year

A

B I L L

INTITULED

An Act to provide Compensation for Tenants making Improvements, and to create Charges in favour of Landlords in respect of Improvements by Tenants or Landlords, in *Ireland*.

Note.—*The Figures in the Margin denote the Number of Folios in the Written Copy.*

1 WHEREAS it is expedient that Tenants of Lands in *Ireland* making such Improvements as are herein-after mentioned should in the Cases herein-after in that Behalf provided for, receive Compensation in respect of their having made such Improvements, and that Landlords should in the Cases herein-after in that Behalf provided for, have Charges on the Land improved, in respect of their having contributed to or made Improvements as herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful for the Queen's most Excellent Majesty and Her Successors, 2 by Warrant under the Royal Sign Manual, to nominate a Person to be Commissioner for the Execution of this Act during Her Majesty's Pleasure, and to remove such Person, and in like Manner to nominate

Commissioner to be appointed under Sign Manual.

another Person to be such Commissioner whenever the Office shall be vacant, and the Person so to be from Time to Time nominated shall be and he is hereby constituted and appointed Commissioner for the Execution of this Act, and shall be styled "The Commissioner of Improvements," and the Appointment of such Commissioner shall be published in the *Dublin Gazette;* and the Commissioners of Her Majesty's Treasury shall from Time to Time fix the Salary or Remuneration of such Commissioner; and such Commissioner shall before entering upon the Execution of this Act sign a Declaration to the Effect stated in Schedule (A.) to this Act.

Commissioners of Treasury to fix his Salary.

Commissioner to sign a Declaration.

Commissioner's Office to be in Dublin. Secretary, &c., and other Officers to be appointed, subject to Direction and Approbation of Commissioners of Treasury.

II. And be it enacted, That the Office of the Commissioner of Improvements shall be in *Dublin;* and such Commissioner shall from Time to Time appoint and employ such Secretaries or Secretary, Clerks, Messengers, and other Officers, as by the Commissioners of Her Majesty's Treasury may be directed or approved; and it shall be lawful for the said Commissioner of Improvements to allow to such Secretaries or Secretary, Clerks, Messengers, and other Officers, such reasonable Salaries or Remuneration as to such Commissioner shall seem meet, subject always to the Approval and Direction of the Commissioners of Her Majesty's Treasury, and from Time to Time, at his Discretion, to dismiss and discharge such Secretaries 3 or Secretary, Clerks, Messengers, and other Officers, or any of them, and, subject to such Direction or Approval as aforesaid, to appoint others in their Place; and the said Secretary, Clerks, Messengers, and other Officers are hereby required to execute and perform their several Duties without any Fee or Gratuity whatsoever therefor, other than such Salaries or Remuneration as shall be fixed, appointed, and allowed in manner by this Act directed.

Commissioner of Improvements to appoint Assistant Commissioners, with Assent of the Lord Lieutenant.

III. And be it enacted, That it shall and may be lawful for the Commissioner of Improvements from Time to Time, by and with the Assent of the Lord Lieutenant of *Ireland*, to employ such duly qualified Person or Persons to act as Assistant Commissioner or Assistant Commissioners, as may be required for the Purposes of this Act; and such Assistant Commissioner or Assistant Commissioners shall receive such Remuneration for the Time he or they shall be so employed as shall be allowed by the Commissioners of Her Majesty's Treasury.

No Superannuation Allowance to any Person under this Act.

IV. Provided always, and be it enacted, That no Commissioner, Examiner, Assistant Commissioner, or other Officer or Person to be appointed

appointed under this Act, shall be entitled, by reason of any Service under this Act, to claim or receive any Superannuation, Pension, or Allowance in the Nature thereof, any thing in any Act or Acts heretofore made, or any Law or Usage, to the contrary notwithstanding.

Salaries and Expences payable out of the Consolidated Fund.

V. And be it enacted, That all Salaries, Remunerations, Charges, and Expences payable, to be made and to be incurred under this Act, or in or about the carrying the same into effect, shall be paid by the Commissioners of Her Majesty's Treasury, out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*.

Commissioner to make Rules and Regulations for Guidance of Assistant Commissioners, subject to Revisal of Treasury.

VI. And be it enacted, That the Commissioner of Improvements shall, with the Approval of the Commissioners of Her Majesty's Treasury, frame such general Rules for the Guidance and Direction of the Assistant Commissioners acting under the Provisions of this Act as he shall think fit, and he may from Time to Time, with the like Approval, rescind or vary such Rules or any of them, or make any new Rules; but this present Provision shall not authorize the making of any Rule repugnant to or inconsistent with any Rule or Provision contained in this Act.

Commissioner to transmit Accounts to the Treasury annually, and at other Times, if required, and such Accounts to be laid before Parliament.

VII. And be it enacted, That the Commissioner of Improvements shall on the First Day of *January* in every Year, and at such other Times as he shall be required so to do, transmit to the Commissioners of Her Majesty's Treasury an Account of his Proceedings under this Act, and such annual Account, together with a Statement showing the Rules and Forms made, rescinded, or varied or substituted under the Provisions of this Act during the preceding Year; and an Account of the Money expended during the preceding Year for Salaries and Remuneration, and all other Charges and Expences incurred in the Execution of this Act, shall be laid before both Houses of Parliament within Six Weeks after the same shall have been so transmitted as aforesaid, if Parliament be then sitting, or if not then within Six Weeks next after the next Meeting of Parliament.

Tenants desirous of building or rebuilding, or draining, to apply for Forms of Proposal and printed Instructions;

VIII. And be it enacted, That if any Tenant shall be desirous of building or rebuilding a House, or any Outbuildings or Offices or Cottages, on his Land, or of draining all or any Part of his Land, he shall, on Application to the Commissioner of Improvements, (which Application to the Commissioner may be made by Letter addressed to the Commissioner of Improvements, *Dublin*, and sent by Post,) be

 furnished

furnished with Three Copies of the Proposal set forth in Schedule B. to this Act, and with One Copy of the Letters No. 1. and No. 2., also set forth in Schedule B. to this Act, and with printed Instructions and Observations, explaining the Manner in which the Proposal is to be filled up, the Improvements for which Compensation is provided by this Act, under what Circumstances the Compensation may be claimed, the Manner in which Improvements must in the particular Case be made, and by what Acts the Compensation may be forfeited; and he shall cause one Copy of such Proposal to be filled up in the Manner directed in the Instructions furnished to him, and shall then fill up the other Copies of such Proposal from the one filled up as before mentioned, and he shall sign the said Letter No. 1., and shall send the same by Post, together with Two Copies of the said Proposal, to the Commissioner of Improvements; and in case the Proposal shall be for building or rebuilding he shall also send therewith Two Plans of the proposed Improvements, with the Scale thereon, and the other of such Copies he shall keep for his own Use; and such Commissioner shall, on Receipt of the Copies sent to him of such Proposal, send one of such Copies by Post to the Landlord of such Tenant or his Land Agent, and shall cause the Registry to be kept in pursuance of this Act to be searched; and such Commissioner (but not until after the Expiration of the Period hereinafter limited for a Landlord requiring a preliminary Inquiry, unless the Landlord, his Attorney, Agent, Bailiff, Steward, or Receiver, shall have signed the Proposal,) shall send by Post to such Tenant an Answer to his Letter, and shall in such Answer state whether there have or have not been any Improvements made under this Act which, either wholly or partially, prevent the then making, under the Provisions of this Act, the proposed Improvements, and whether the proposed Improvements can or cannot be wholly or to any Extent then made under the Provisions of this Act, and if the proposed Improvements can then be made under the Provisions of this Act to a limited Extent only, the Extent (so far as his Information will then enable him so to do) to which the same can be so made, and if it shall appear that all or any of the proposed Improvements cannot be made under this Act without the written Consent of the Landlord, he shall inform the Tenant thereof, and if, under the Provision for that Purpose herein-after contained, a preliminary Inquiry shall have been required, he shall inform the Tenant thereof: Provided always, that such Commissioner may, if he shall think proper, require the Tenant to furnish him any further Information in order to enable him to answer such Letter.

and he is to fill up the Forms of Proposal when furnished, and forward Two Copies to Commissioner, with a Letter.

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Commissioner to send one of the Copies of Proposal to Landlord, and to search his Registry, and to answer Tenant's Letter, informing him whether there have been already Improvements which prevent the proposed Improvements, and whether any of the Improvements require the Consent of Landlord, and whether preliminary Inquiries demanded.

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Commissioner may require further Information from Tenant.

IX. And

IX. And be it enacted, That the Landlord to whom a Copy of the said Proposal shall be sent, as before directed, shall, in case of his having a superior Landlord, serve a Copy thereof on his superior Landlord, or in case of there being more than One such superior Landlord, his immediately superior Landlord, and such immediately superior Landlord shall in like Manner serve a Copy of the Copy served on him on his superior Landlord or immediately superior Landlord, as the Case may be, and so on from Landlord to Landlord, to the Intent that every Landlord may have Notice of such Proposal, and that each Service required by this present Provision shall be effected within One Week after Service on the Party by such Provision required to effect Service, but the Compliance with this present Provision shall not be essential to the Validity of any Act, Claim, or Proceeding done, allowed, or taken under this Act; but the Party neglecting to comply with such Provision shall forfeit to the superior Landlord or immediately superior Landlord, as the Case may be, the Sum of Twenty Pounds.

Landlord on whom Copy of Proposal served to serve Copy on his Landlord, if any.

Penalty for not doing so.

X. And be it enacted, That after the Letter of the Tenant shall have been answered by the Commissioner of Improvements the Tenant shall be at liberty, having due Regard to such Answer, to proceed with the Improvements, but as to Improvements by a Tenant where Consent is by this Act required, not without such Consent; and such Tenant shall make such Improvements with reasonable Diligence; and during the making of such Improvements the Landlord and every superior Landlord, if any, shall be at liberty to enter upon the Land to inspect the making of such Improvements.

Tenant, having received Commissioner's Answer, may make Improvements, if authorized.

Landlord may inspect Improvements during their Progress.

XI. Provided always, and it is hereby declared, That in case the Landlord or any superior Landlord shall, within Three Weeks after the said Commissioner of Improvements shall have sent to the Landlord such Copy Proposal as aforesaid, give Notice to the Commissioner of Improvements that he is desirous that there should be a preliminary Inquiry as to such Improvements or any of them, such Commissioner shall require one of the Assistant Commissioners acting in execution of this Act to make such preliminary Inquiry, and such Assistant Commissioner shall thereupon inquire whether such Improvements are, under all the Circumstances, wholly or partially proper and suitable, and he shall report the Result of his Inquiry to such Commissioner, who shall be at liberty to refer back such Report, once or oftener, for Re-consideration, to such Assistant Com-

Landlord may, within Three Weeks after Tenant's Proposal, require a preliminary Inquiry as to the Suitableness of the Improvements proposed.

missioner or his Successor; and when the Report shall be satisfactory to such Commissioner he shall inform the Tenant of the Effect of such Report, and such Tenant shall not have Authority by this Act to make any Improvements otherwise than in conformity with such Report; and it is hereby further declared, that the Commissioner of 9
Improvements shall be the sole Judge whether a Notice by a Landlord or superior Landlord, that he is desirous that there should be a preliminary Inquiry, has been given within the said Period of Three Weeks.

Tenant to inform Commissioner when Improvements completed;

XII. And be it enacted, That when the Tenant shall have completed the Improvements to be made by him he shall sign the said Letter No. 2., and shall send the same by Post to the Commissioner of Improvements; and in case of the Eviction or Death of any Tenant before the Completion of any Improvements commenced by him under this Act, provided in the Case of Death, the Tenancy shall have thereupon or subsequently determined, he or his personal Representative shall write to the Commissioner acting in execution of this Act a Letter in the Form given in Schedule (C.) to this Act; and either of such Letters as aforesaid having been sent, or if in the latter of such Cases the Landlord shall request in Writing such Commissioner so to do, such Commissioner shall require one of the Assistant Commissioners acting in the Execution of this Act to make his Report upon such Improvements, and such Assistant Commissioner, having been so required, shall appoint a Day for the Consideration of his Report, and shall give Notice of such Appointment to the Landlord and Tenant, and shall in the first instance ascertain whether there be any superior Landlord or Landlords, and if there be such superior Landlord or Landlords, and he or they shall not have had Notice of such Appointment, then such Assistant Commissioner shall require him or them to be served with Notice of his Intention to consider his Report, and for that Purpose, or for any other Reason in his Judgment sufficient in that Behalf, he may from Time to Time postpone the Consideration of his Report; and when in the Opinion of the Assistant Commissioner all proper Parties shall have had due Notice of the Consideration of such Report, and there shall not be any Reason, or any sufficient Reason, for postponing the Consideration of his Report, such Assistant Commissioner shall proceed to inquire as to such Improvements, and the Sums expended in making the same, and the Value of the Labour employed therein, and to enable him to make his Report he may call for any Vouchers he may think proper, and may make or cause to be made any Surveys

or in case of his Eviction, or Death, and Determination of Tenancy, before Completion, he or his personal Representative to inform Commissioner.

In any such Case, or if Landlord request in latter Case, the Commissioner to require an Assistant Commissioner to make his Report on the Improvements.

Assistant Commissioner to give Notice to Landlord and Tenant and superior Landlord;

and then to inquire as to Improvements, and the Expenditure and Value of Labour employed therein:

He may call for Vouchers, make Surveys, and examine Parties on Oath.

10

or

or Admeasurements which he may think proper, and may, if he think proper, examine any Parties, upon Oath or Affirmation, and he is hereby authorized to administer such Oath or Affirmation to any Person so examined, and any Person falsely swearing or affirming shall suffer the Pains and Penalties in force against wilful and corrupt Perjury, and he shall inquire and ascertain whether any Sum, and if any Sum what Sum, has been provided, contributed, or expended by the Landlord for or towards the making of the Improvements under Consideration, and having completed his Inquiries he shall make his Report to the Commissioner of Improvements, and in such Report
11 he shall state whether any, and if any what Sum, ought in his Judgment to be allowed to the Tenant for the Improvements made or which were being made by him, and whether any, and if any what Sum, ought in his Judgment be allowed to the Landlord for the Improvements which were being made by the Tenant at the Time of such Eviction or Death and Determination of the Tenancy as aforesaid, and which shall have been completed by the Landlord; and if such Improvements shall consist partly of building or rebuilding, and partly of draining, such Commissioner shall distinguish the Sum or Sums to be allowed for such building or rebuilding and draining respectively, and where more than One Building shall have been or was being built or rebuilt he shall distinguish the Sum to be allowed in respect of each such Building; and in Cases of Eviction the Assistant Commissioner shall inquire and report whether such Eviction has in fact taken place, and when the same took place, and in Cases of Death, and Determination of the Tenancy, the Assistant Commissioner shall inquire and report whether the same have in fact taken place, and when the same took place; and in case the Assistant Commissioner shall consider that there has been unreasonable Delay in making any Improvements, he shall be at liberty so to state in his Report, and to recommend that on that Account no Allowance or a smaller Allowance ought to be made; and in case any Improvements shall not have been made in the Manner required by the Commissioner's Answer to the Proposal,
12 or by the printed Instructions or Observations sent therewith, he shall so state in his Report, and he may recommend that on that Account no Allowance or a smaller Allowance ought to be made; and such Assistant Commissioner shall be at liberty to state in his Report any other special Circumstances for the Consideration of the Commissioner of Improvements in fixing the Sum or Sums to be allowed under this Act; and such Assistant Commissioner shall in preparing his Report have regard to the following Rules :—

He shall ascertain whether any Sum of Landlord's expended in Improvements;

and shall make a Report;

and state Sum to be allowed to Tenant, and in case of Improvements completed by a Landlord, the Sum to be allowed to the Landlord,

and shall distinguish such Allowance for building or rebuilding and draining,

and Sum for each Building.

In case of Eviction he shall inquire and report whether and when Tenant has been evicted.

Similar Inquiry and Report as to Death and Determination of the Tenancy.

He may report that there has been unreasonable Delay in making Improvements, and recommend no Allowance or Deduction on account thereof;

or that any Improvements have not been made according to Instructions, and recommend no Allowance, or a Deduction on account thereof;

and may state any other special Circumstances for the Consideration of the Commissioner.

Assistant Commissioner, in preparing his Report, to have regard to certain Rules limiting the Amount of Allowance and disallowing Allowance in certain Cases.

Rule 1. The Sums to be specified in the Report shall be limited to the following Scales:

£3, calculated on each Statute Acre or Part of a Statute Acre of Land held by the Tenant, to be the Limit of Allowance on account of building or rebuilding Tenant's House:

£1, calculated on each Statute Acre or Part of a Statute Acre of Land held by the Tenant, to be the Limit of Allowance on account of building or rebuilding other Buildings:

£3 *per* Statute Acre, calculated on each Statute Acre drained or Part of a Statute Acre drained, to be the Limit of Allowance on account of Drainage:

Provided always, that the total Amount of Claims for all such Classes of Improvements shall be limited to £5 *per* Statute Acre.

And as to Claims for building or rebuilding a House or other Buildings respectively, where within Thirty Years previously to the Date of the Proposal any Improvements by building or rebuilding respectively a House or other Buildings shall have been made on the Land held by such Tenant, or any Part 13
thereof, or on any other Land, Part of a Farm of which such Land or any Part thereof was Parcel, and any Claim or Claims shall have been allowed under this Act in respect of such Improvements, and the Tenant shall have had Notice thereof by the Answer to his Proposal, the Amount of such Claim or Claims for building or rebuilding a House or other Buildings respectively, or, in Cases where such Land or any Part thereof was Parcel of another Farm at the Time of the former Improvements, a fair and reasonable proportionate Part of the Amount of such Claim or Claims for building or rebuilding a House or other Buildings respectively, shall be taken into consideration by the Assistant Commissioner in fixing the Amount of the Claim or Claims for such building or rebuilding of a House or other Buildings respectively, the Assistant Commissioner adopting the Answer of the Commissioner of Improvements to the Proposal of the Tenant as his Guide in making such Deduction as aforesaid, so far as such Answer shall afford such Guide; and the Period of Thirty Years hereby limited shall be computed from the Date of the Proposal in pursuance of which the former Improvements, or the first Part thereof, were or was made.

And as to Claims for draining, where within Fourteen Years previously to the Date of the Proposal the Land in respect of 14
which

which a Claim shall be made under this Act, or any Part thereof, shall have been drained, and any Claim or Claims allowed under this Act in respect thereof, and the Tenant or Landlord shall have had Notice thereof by the Answer to his Proposal, the Amount of such Claim or Claims so allowed shall be deducted by the Assistant Commissioner from the Sum or Sums which he would otherwise have mentioned in his Report as the Amount of the Claim or Claims; and the Period of Fourteen Years hereby limited shall be computed from the Date of the Proposal in pursuance of which the former Improvements, or the first Part thereof, were or was made:

Notwithstanding the said several Sums of £3., £1., and £3., herein-before mentioned, it is intended that the total Amount of the Claims for all the Classes of Improvements herein-before mentioned shall be limited to £5., and therefore as to any Claims the Assistant Commissioner shall take into consideration any Claim or Claims which shall have been allowed during the said respective Periods of Thirty Years and Fourteen Years respectively, and shall, if necessary, reduce the Amount of the Claim or Claims which he would otherwise have allowed, so that the Amount thereof may not exceed the Sum of £5.; but this Provision shall not be acted upon as against a Tenant who shall not have had Notice by the Answer to his Proposal that the Claim or Claims will in the particular Case be so limited.

Rule 2. No Compensation shall be allowed for any Buildings or Drainage which the Tenant was under Contract to do, nor for any Buildings which shall have been built, and which in the Opinion of the Assistant Commissioner were not required for or shall be altogether unsuitable to the Tenant's Land, nor for any Drainage, unless the Main Drain or Main Drains (if any) shall be of the Depth of at least Thirty-six Inches below the Surface, and the other Drain or Drains shall be of the Depth of at least Thirty Inches below the Surface, and the Drainage be in other respects done according to the System of Drainage commonly called Thorough Drainage, nor for any Improvements which upon a preliminary Inquiry shall have been reported against, nor for any Improvements in any Case where the Land of the Tenant shall not all lie together, unless the Landlord shall, before such Improvements shall have been commenced,

have consented in Writing to the making thereof, nor for Cottages or other Buildings erected, without the like Consent, for the Purpose of sub-letting, or for any other Purpose than the actual Occupation thereof by the Tenant.

Where Tenant has a Claim before Completion, the Assistant Commissioner to postpone his Report so as to give the Landlord an Opportunity of completing them.

XIII. Provided always, and be it enacted, That when, under the Provisions herein-before contained, a Case shall arise for a Claim by a Tenant in respect of Improvements not completed, the Assistant Commissioner shall postpone during such Period as he shall think 16
reasonable the Preparation of his Report, in order that the Landlord may be enabled to complete such Improvements before the Preparation of the Report.

Landlords, including Parties having particular Interests only, Trustees, Receivers, Guardians, and Committees, may complete Improvements.

XIV. And be it enacted, That the Landlord, whatever may be the Extent of his Interest, and whether he shall be beneficially interested or not, (including, with the Consent of the Court by whom a Receiver shall have been appointed, such Receiver,) and the Guardian of any such Landlord being an Infant, and, with the Consent of the Lord Chancellor of *Ireland*, the Committee of any Landlord being of unsound Mind, shall be at liberty to expend any Sum or Sums for or towards the completing of any Improvements commenced by a Tenant, and not completed by him at the Time of his Eviction or his Death, and the Determination of the Tenancy and any Landlord not beneficially interested (but as to such Receiver as aforesaid not without such Consent as aforesaid), or any such Guardian, or, with such Consent as aforesaid, such Committee, shall be at liberty to apply for such Purpose, or for the Purpose of reimbursing himself any Monies which he shall apply or pay under this Act, any Monies in his Hands belonging to the Party beneficially interested; and such Landlord shall in respect of the Monies so applied or reimbursed be a Trustee of the Charge herein-after created by this Act for the Party whose Monies shall be so as aforesaid applied by such Landlord; and 17
any Monies provided, contributed, or expended by the Guardian of an Infant, or the Committee of a Person of unsound Mind, shall for the Purposes of the Charge herein-after created by this Act be considered to have been provided, contributed, or expended by the Infant, or Person of unsound Mind.

Commissioner to examine Assistant Commissioner's Report;

XV. And be it enacted, That when the Assistant Commissioner shall have made his Report as is herein-before directed the Commissioner of Improvements shall examine the same, and he shall, if he shall think proper, either once or oftener, direct such Assistant Commissioner,

missioner, or any Assistant Commissiouer succeeding him, to review his Report; and when such Report shall be satisfactory to the Commissioner of Improvements he shall, in case, according to the Report, any Sum ought to be allowed to the Tenant and Landlord, or either of them, prepare and sign a Certificate founded on such Report, in which the Date of the original Proposal, and such other Particulars as such Commissioner shall think desirable, shall be set forth, and such Commissioner shall in such Certificate fix the Sum or Sums, if any, for which the Tenant shall have a Claim under this Act, and the Sum or Sums, if any, for which the Landlord shall have a Claim under this Act; and in fixing such Sum or Sums he shall, if and so far as he shall think proper, have regard to such Recommendations and special Circumstances, if any, as shall, under the Liberty herein-before in that Behalf given, be stated in the Report, he not, however, being bound
18 by any Amount or Amounts in such Report recommended to be deducted; and such Commissioner may, in the Exercise of his Discretion, certify that, having regard to the Recommendation or Recommendations or special Circumstances stated in the Report, the Tenant and the Landlord, or either of them, shall not have any Claim under this Act; and such Commissioner shall in his Certificate, in case the Improvements allowed for shall consist partly of building or rebuilding, and partly of draining, distinguish the Sum or Sums to be allowed for such building or rebuilding and draining respectively, and where more than One Building shall be allowed for he shall distinguish the Sum to be allowed in respect of each such Building.

and may direct Assistant Commissioner to review same.

Commissioner to prepare Certificate of Allowance of Compensation to Tenant, or Tenant and Landlord, which Certificate shall contain certain Particulars.

Commissioner may refuse Allowance altogether.

Commissioner to distinguish Allowance for building or rebuilding and draining, and in respect of each House.

XVI. And be it enacted, That the Commissioner of Improvements shall register his Certificate in his Office, and the Registry of his Certificates under this Act shall be called "The Register of Claims," and he shall send by the Post to the Landlord and also to the Tenant a Copy signed by him of such Certificate, and he shall keep a proper Index to his Register, which Index shall contain such Particulars as shall, in the Judgment of such Commissioner, be useful; and such Certificate shall, without other Proofs, to all Intents and for all Purposes be conclusive Evidence that all the preliminary Notices, Consents, Steps, and Proceedings prescribed and required by this Act were in fact given, obtained, and taken, and that the Sum or Sums fixed by such Certificate is or are a Sum or Sums properly claimable under
19 this Act, by the Person or Persons in such Certificate mentioned, in respect of the Improvements in such Certificate mentioned, and of all such Particulars as such Commissioner shall state in such Certificate, whether expressly provided for by this Act or not.

Commissioner to register his Certificate, and send Copies to the Tenant and Landlord.

Commissioner to make Index to Registry.

Certificate to be conclusive as to Claim.

 XVII. And

Tenant to recover for Compensation as follows:

XVII. And be it enacted, That all and every Sums and Sum fixed by the Commissioner acting in execution of this Act as the Amount of the Claim of a Tenant shall be recoverable from such Person, and under such Circumstances, and either wholly or partially, as herein-after mentioned and provided; that is to say, in case the Tenant shall be evicted by his Landlord within Thirty Years, computed from and inclusive of the Day of the Date of the Proposal in pursuance of which the Improvements in respect of which such Sums or Sum were or was fixed were made, or in case of the Death of the Tenant, and the Determination of the Tenancy upon or after such Death, within the like Period, the Tenant at the Time of the Eviction or Determination of the Tenancy, or his personal Representative, shall (but not before the Amount, if any, of such Deduction as is herein-after mentioned shall have been ascertained, or the Time for requiring such preliminary Inquiry as herein-after mentioned shall have expired without the same being required,) recover from the Landlord, at the Time of such Eviction or Determination of the Tenancy, the Sum by the Commissioner's said Certificate appearing to have been allowed to a Tenant for building or rebuilding, deducting from such Sum One Twenty-ninth Part thereof for each Year which shall have elapsed from the End of the first Year after the Date of the Proposal until such Eviction or Death and Determination of the Tenancy (so that the first Deduction may be made in respect of the second Year after the Date of such Proposal), and also deducting therefrom such Sum, if any, as shall, in case of a preliminary Inquiry under the Provision in that Behalf herein-after contained having been required, have been ascertained by an Assistant Commissioner to be proper to be deducted for in respect of Want of Repair; and in case the Tenant shall be evicted by his Landlord within Fourteen Years, computed from and inclusive of the Day of the Date of the Proposal in pursuance of which the Drainage in respect of which a Sum was fixed and allowed for Drainage was done, or in case of the Death of the Tenant, and the Determination of the Tenancy upon or after such Death, within the like Period, the Tenant, at the Time of the Eviction or Death, and Determination of the Tenancy, or his personal Representative, shall recover from the Landlord at the Time of such Eviction or Determination of the Tenancy the Sum by the Commissioner's said Certificate appearing to have been allowed to a Tenant for Drainage, deducting from such Sum One Thirteenth Part thereof for each Year which shall have elapsed from the End of the first Year after the Date of the Proposal until such Eviction or Death, and Determination of the Tenancy,

If Tenant evicted, or he shall die, and his Tenancy then, or afterwards within Thirty Years from the Proposal, determine, the Sum allowed the Tenant by the Commissioner for building or rebuilding to be recoverable from his then Landlord, deducting One Twenty-ninth thereof for each Year, computed from One Year after the Date of the Proposal.

The Allowance for Drainage to be recoverable on Eviction or Death, and Determination of the Tenancy, within Fourteen Years, deducting One Thirteenth from each Year, computed from One Year after the Date of the Proposal.

21 Tenancy (so that the first Deduction may be made in respect of the second Year after the Date of such Proposal); and it is hereby declared that any Sum recoverable under this Provision shall be recoverable by Action of Debt, and that no Sum shall be recoverable under this Act by the Tenant or his Representative except in Cases provided for by this present Provision; and in particular it is hereby expressly declared, that, except in the Case of Death and Determination of the Tenancy, for which express Provision is hereby made, no Tenant for a fixed Period (including Tenants whose Interests may depend upon a Life or Lives), or the Representative of such Tenant, shall have any Claim, if upon the Determination of the Tenancy of such Tenant his Landlord shall be willing to allow him to remain Tenant either at Will or from Year to Year (at the Landlord's Election), and the Tenant shall nevertheless give up the Occupation of the Land, or if upon the Determination of his Tenancy he shall remain in the Occupation of the Land, either as Tenant at Will or from Year to Year, or under a Lease, unless or until in the Case of his so remaining in such Occupation he shall be evicted within one of the Periods hereby limited: Provided always, that no Receiver appointed by the High Court of Chancery or the Court of Exchequer who shall within the Meaning of this Act be the Landlord at 22 the Time of the Eviction or Determination of the Tenancy shall be subject to such Action of Debt as aforesaid; but in such Case the Tenant or his personal Representative may present a Petition to the Court appointing such Receiver, to be satisfied his Claim and the Costs of the Application out of the Rents and Profits of the Tenement, and he shall be satisfied thereout accordingly as if he were the Party having the first Charge thereon, and a Receiver of such Rents and Profits shall be continued until he shall be so satisfied.

Remedy to be by Action of Debt. Tenant to have no Claim except in Cases above provided for.

Tenants not to recover if Landlord allow or shall be willing to allow them to remain in possession after Determination of their Leases, except in Cases of Death and Determination of Tenancy.

Provision for the Case of Property in the Hands of a Receiver.

XVIII. And be it enacted, That if any Tenant shall be desirous of levelling interior Fences he shall, on Application to the Commissioner of Improvements (such Application to be made as aforesaid), be furnished with Three Copies of a Proposal to be framed for such Cases under the Power of making Forms herein contained, and with printed Instructions and Observations similar, as nearly as the Case will admit, to those herein-before mentioned, and such Copies shall be filled up in manner aforesaid, and such further Proceedings shall be had with reference to and consequent upon such Proposal as are herein-before provided for with reference to Drainage; and all the Provisions herein-before contained, which expressly or otherwise are

Clause extending, with some Variations, the former Provisions to Improvements by levelling Fences.

applicable to Improvements by draining, shall, subject only to the Provisoes herein-after contained, apply to Improvements by levelling Fences: Provided always, that the Assistant Commissioner, instead of inquiring what Sums have been expended in making the Improvements, and the Value of the Labour employed therein, shall inquire what is the average Rent *per* Acre of all the Land held by the Tenant, and which previously to such levelling of Fences was in or 23
capable of Cultivation, and what is the Quantity of Land rendered capable of Cultivation by the levelling of Fences, and he shall estimate the Sum to be allowed to the Tenant for Improvements by the levelling of Fences at a Sum not exceeding Twenty Years Rental of the Land so rendered capable of Cultivation as aforesaid, such Land being treated as yielding the same Rent *per* Acre as the average Rent *per* Acre of such other Land as aforesaid of the Tenant; provided that any Deduction or Refusal of Allowance may be recommended, and may in pursuance of the Recommendation be made, on account of the Improvements not having been made according to the Commissioner's Answer or the printed Instructions or Observations, or in respect of any other special Circumstances reported by the Assistant Commissioner: Provided also, that no Compensation shall be allowed for levelling of Fences which the Tenant was under Contract to do, nor for any levelling of Fences which upon a preliminary Inquiry shall have been reported against: Provided also, that where the Tenant shall in his Proposal have signified his Intention to substitute for the Fence to be levelled a Fence which shall not occupy so great a Space as the Fence to be levelled, or in case the Commissioner of Improvements shall have required a new Fence to be substituted for any Fence to be levelled, no Sum shall be allowed to the Tenant unless the Fence so proposed or required to be substituted shall have been substituted: Provided also, that any Sum 24
allowed for levelling Fences shall be recoverable on Eviction or Death, and Determination of the Tenancy, within Twenty Years, in like Manner as the same would have been recoverable if the same had been a Sum allowed for Drainage, and the Period of Twenty Years had been herein-before fixed in relation thereto instead of the Period of Fourteen Years, and a Deduction of One Nineteenth Part of the Allowance for each Year which shall have elapsed from the End of the first Year after the Date of the Proposal had been directed to be made instead of a Deduction of One Fourteenth Part of such Allowance.

XIX. Pro-

Landlord may resist Claim, if Tenant sublet after Date of his Proposal.

XIX. Provided always, and be it enacted, That in any Claim, Action, or Petition made, brought, or presented by a Tenant or his Representative, for any Sum fixed by the Certificate registered in pursuance of this Act, in case the Landlord upon or against whom such Claim or Action shall be made or brought, or such Receiver as aforesaid, shall be able and shall think proper to avail himself thereof, it shall be lawful for him to avail himself of one or any of the Defences following; (that is to say,) that the Tenant, subsequently to the Date of his Proposal, in pursuance of which the Improvements were made, did without the Consent in Writing of his Landlord, or the Attorney, Agent, Bailiff, Steward, or Receiver of such Landlord, sublet or part with the actual Occupation of all or some Part of the Land or Buildings held by him, not being Land or a Building which at the Date of the Proposal was sublet, or out of the actual Occupation of the Tenant, and not being a Building built with such Consent as aforesaid for the Purpose of being sublet, or for some other Purpose than the actual Occupation thereof by the Tenant.

Exception of Land and Buildings when sublet, or Buildings built with Consent for subletting.

Landlord may require an Inquiry as to the State of Repair of Buildings, with a view to a Deduction being made from Tenant's Claim.

XX. Provided always, and it is hereby declared, That in case the Landlord or any superior Landlord shall, within One Calendar Month after such Eviction or Death and Determination of the Tenancy as aforesaid, give Notice to the Commissioner of Improvements that the Buildings in respect of which a Claim shall have been allowed is not in tenantable Repair, and that he is desirous of an Inquiry as to the State of Repair thereof, such Commissioner shall require one of the Assistant Commissioners acting in execution of this Act to make such Inquiry, and such Assistant Commissioner shall thereupon inquire whether such Building is in tenantable Repair, and, in case of his finding that the same is not in tenantable Repair, what Sum in respect of the Want of Repair ought to be deducted from the Sum which would otherwise have been recoverable by the Tenant, and he shall report the Result of his Inquiries to such Commissioner, and he may in his Report state that there was not any Ground for the Inquiry; and such Commissioner shall be at liberty to refer back such Report once or oftener for Re-consideration to such Assistant Commissioner or his Successor, and when the Report shall be satisfactory to such Commissioner he shall confirm such Report; and it is hereby further declared, that the Commissioner of Improvements shall be the sole Judge whether a Notice by a Landlord or superior Landlord, that he is desirous that there should be a preliminary Inquiry, has been given within the said Period of One Calendar Month; and it is hereby enacted, that in

Penalty on Landlord requiring an Inquiry without any Ground for same.

in case of the Assistant Commissioner reporting that there was not any Ground for the Inquiry, the Landlord or superior Landlord requiring the same shall forfeit to the Tenant the Sum of Twenty Pounds.

Power for Assistant Commissioners and other Officers to enter on Land and Buildings.

XXI. And be it enacted, That any Assistant Commissioner or other Officer acting in execution of this Act, or any other Person authorized by him, may enter upon any Land or Building for the Purpose of making any Inquiry, or obtaining any Information which shall be considered by him in anywise necessary or material in connexion with this Act, whether in reference to such Land or Building or any other Land or Building; and the fact of the Person making such Entry being such Assistant Commissioner or other Officer, or a Person so authorized as aforesaid, shall be a Defence to any Action or other Proceeding against him for such Entry, unless it be shown that he entered for a Purpose having no Connexion whatever with this Act.

Landlord to have a Charge on the Land for Sums allowed him by Commissioner or paid by him to Tenants.

XXII. And be it enacted, That all and every Sums and Sum which shall be paid by a Landlord to a Tenant in satisfaction of Sums or a Sum for which such Tenant shall have a Claim under this Act, and also all and every Sums and Sum fixed by the Commissioner of Improvements as the Amount of the Claim of a Landlord, shall be Charges or a Charge in favour of the Landlord who 27
shall pay such Sums or Sum, or in whose Favour the Commissioner of Improvements shall have certified respectively, whatever Estate or Interest such Landlord may have in such Land on the Land held by such Tenant at the Date of the Proposal for the Improvements in respect of which such Sums or Sum were or was paid or fixed as aforesaid; and for the Purpose of this Provision a Receiver, appointed by the Court of Chancery or Court of Exchequer, shall be considered the Landlord paying the Sum or Sums which shall have been paid in pursuance of such Petition as aforesaid; and every such Charge shall bear Interest at the Rate of Five Pounds *per Centum per Annum*, to be computed as to Sums or a Sum paid to a Tenant from the Day of Payment to such Tenant, and as to Sums or a Sum fixed by the Commissioner's Certificate as the Amount of the Claim of the Landlord from the Date of such Certificate; and every Charge by virtue of this present Provision shall be liquidated so as to cease to be a Charge by the Instalments and in manner following; that is to say, every such Charge shall be considered as divided into Twenty equal Parts, and in the Case of Payment to the Tenant One of such Parts, together

Charge to bear Interest at Five per Cent.

The Charge to cease by Twenty Instalments.

together with the Interest up to that Day on such Charge, shall be considered to be liquidated on the First Day of *January* in the Year next but one after such Time as the Sums or Sum payable to such Tenant became payable; and in the Case of the Charge having been
28 fixed by the Commissioner's Certificate as the Amount of the Claim of the Landlord, One of such Parts, together with all Interest on the Amount of such Charge up to that Day, shall be considered to be liquidated on the First Day of *January* in the Year next but One after the Eviction of the Tenant, or the Death and Determination of the Interest of the Tenant; and in the said respective Cases another of such Twentieth Parts, together with the Interest on so much of the Charge as shall from Time to Time remain unliquidated, shall be considered to be liquidated on the First Day of *January* in every succeeding Year, computed from the First Instalment Day hereby appointed, or the immediately preceding Instalment Day, as the Case may be, until the End of the Twentieth Instalment Day, when the whole of such Charge, and the Interest thereon, shall be deemed to have been liquidated; and such Instalments as aforesaid, and the Interest payable at the same Time therewith, shall be borne or paid without Apportionment, either as to the Instalment or the Interest, by the Person or Persons from Time to Time on the Instalment Days happening in the Receipt of the Rents and Profits of the Land subject to such Charge, except that the Interest on the Sums or Sum fixed by the Commissioner's Certificate as the Amount of the Claim of the Landlord shall, until the Determination of the Landlord's Interest, be considered as accruing from Day to Day, and as being to be borne and paid according to the ordinary Rule of Equity in the Case of Interest.

As to Sums paid to Tenant, First Instalment with all Interest to cease on 1st January next but one after Tenant entitled to recover.

As to Sums allowed by Certificate to Landlord, First Instalment with all Interest to cease on the 1st January next but one after the Eviction of the Tenant, or the Death and Determination of the Interest of the Tenant.

In each Case the other Instalments to be annual, and to be computed from the First Instalment Day.

No Apportionment of Instalments or the Year's Interest;

except that such Interest on Sums allowed by Certificate to Landlord as shall accrue until the Determination of Landlord's Interest shall be considered as accruing and liquidated daily.

29 XXIII. And be it enacted, That the Commissioner of Improvements shall keep Copies of all Letters written by him in pursuance of this Act to Tenants, and shall cause all Proposals, Reports, and Letters sent, made, and addressed to him under this Act, and all Consents to Improvements under this Act, where Consent is by this Act required, to be filed in his Office; and that the Register of Claims, Consents, and all Copies of Letters and Proposals, Reports, and Letters so to be filed as aforesaid, shall be open to public Inspection, Search, or Examination, on Payment of by each Person for each such Inspection, Search, or Examination; and any Person shall on request be furnished with a Copy signed by such Commissioner of any Certificate registered under this Act, or of any Consent, Copy of a Letter, Proposal, Report, or Letter, filed or kept as aforesaid,

Commissioner to keep Copies of Letters, and to file Proposals, Reports, and Letters.

Register of Claims and Copies of Letters, &c. to be open to public Inspection on Payment of Fee.

Certified Copies to be furnished at certain Rates of Payment.

said, on Payment for the same at such Rate for the First Folio of Seventy-two Words, and for every complete succeeding Folio of Seventy-two Words, as shall from Time to Time be fixed by the Commissioner of Improvements, by and with the Assent of the Lord Lieutenant of *Ireland*, which Copy so furnished shall be admitted as Evidence of the original Certificate, Letter, Proposal, or Report, without Proof of the Signature to the same, or of the Party whose Name shall appear thereto being Commissioner of Improvements.

Copies to be Evidence.

Forms in Schedules (B.) and (C.) may be altered by Commissioner, with Consent of Lord Lieutenant, and additional Forms may be made.

XXIV. Provided always, and be it enacted, That, notwithstanding any thing herein contained, any of the Forms given in the Schedules (B.) and (C.) to this Act may from Time to Time be altered by the 30
Commissioner of Improvements, with the Consent in Writing of the Lord Lieutenant of *Ireland*; and such Commissioner may, with the like Consent, from Time to Time substitute any other Form or Forms for any Form or Forms contained in such Schedules respectively, or substituted under this present Power, or make any new and additional Form or Forms for the Purposes of this Act.

Interpretation Clause.

"Tenant:"

XXV. And be it enacted, That in the Construction of this Act the Word "Tenant" shall be construed to mean a Person in the actual Occupation of Land let for Pasture or Cultivation, and which shall not have been let for One or Two Seasons only, or for any special or temporary Purpose, but shall be held by such Person as Tenant at Will or from Year to Year, or for a Term of Years absolute or determinable on the dropping of a Life or Lives, or for a Life or Lives with or without a Term of Years, and shall include the personal Representatives of a Tenant within this Act, or the Parties claiming as special Occupants on the Death of such a Tenant, and generally all Parties claiming or deriving Title from, through, or under such a Tenant and a Party who shall have been but shall have ceased

"Landlord:"

to be such Tenant; the Word "Landlord," whether accompanied with the Word or Words "superior" or "immediately superior," or not, shall be construed to mean the Person for the Time being entitled to a vested Right to the Possession of his Tenant's Land immediately on the Determination of such Tenant's Interest, the Person in the 31
Receipt of the Rent payable by such Tenant (including a Receiver appointed by the Court of Chancery or the Court of Exchequer) being deemed to be rightfully entitled to such vested Right, and shall include the Party who was entitled as aforesaid at the Time of the Determination of a Tenancy, and the personal Representatives

"draining," and "to drain:"

of a Landlord within this Act; the Words "draining," and "to drain"

drain" shall be construed to mean "Thorough Draining," and to "thorough drain;" the Words "Commissioners of Her Majesty's Treasury" shall be construed to mean any Three or more of such Commissioners for the Time being, or the Lord High Treasurer of the United Kingdom of *Great Britain* and *Ireland* for the Time being; and the Words "Lord Lieutenant of *Ireland*" shall be construed to mean Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the Time being; and the Word "serve" shall be construed to mean either personal Service, or Service on the Attorney, Agent, Bailiff, Steward, or Receiver of the Person to be served, or Service by Delivery at the Place of Abode of the Person to be served; and the Word "Improvements" shall mean, though used in connexion with the Word "Land," any Description of Improvements provided for by this Act; and the Words "Eviction" and "evicted" shall be construed to extend to the Case of a Tenant continuing in possession at an increased Rent, the Eviction
32 being considered to have taken place at the Time from which such increased Rent shall commence; the Word "Lease" shall extend to an Agreement for a Lease; the Word "Person" shall extend to a Body Politic, Corporate, or Collegiate, as well as an Individual; and every Word importing the Singular Number only shall extend and be applied to several Persons or Things as well as one Person or Thing, and every Word importing the Plural Number shall extend and be applied to one Person or Thing as well as several Persons or Things, and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male: Provided always, that those Words to which an extended Meaning is to be attached shall not have such extended Meaning in Cases in which there is any thing in the Subject or Context repugnant to such Construction.

"Commissioners of Her Majesty's Treasury:"

"Lord Lieutenant Ireland:"

"serve:"

"Improvements:"

"Eviction," and "evicted:"

"Lease:"

"Person:"

"Number and Gender."

Proviso as to Context.

XXVII. And be it enacted, That this Act shall commence from the Day of

Commencement of Act.

XXVIII. And be it enacted, That this Act shall only extend to Lands in *Ireland*.

Act to extend to Ireland only.

XXIX. And be it enacted, That this Act or any Part thereof may be altered, varied, or repealed by any Act or Acts to be passed in the present Session of Parliament.

Act may be altered, &c.

SCHEDULES referred to.

SCHEDULE (A.)

Declaration to be signed by Commissioner.

I do declare, That according to the best of my Judgment I will faithfully and impartially execute the several Duties, Powers, and Trusts vested in me by an Act intituled [*insert Title of this Act*]. 33

SCHEDULE (B.)

Proposal of [*give Name*].

[*Supply the Date.*]

Dated the Day of

1. Name and Residence of Landlord.*	2. Name of Tenant.	3. Tenant's Interest in the Land.	4. Where the Land is situated.	5. The Quantity of the Land.	6. Whether all the Land lies together or not.	7. What Buildings there are on the Land.	8. The Rent.	9. Whether any Part of the Land, or any Cottages or other Buildings on it, are in the Occupation of any other Persons.	10. What Improvements are proposed.	11. Whether both Landlord and Tenant are desirous that Improvements should be made.

* [*If Receiver under the Court, state so.*]

To be signed by Tenant, or the Landlord and Tenant.

LETTER No. 1.

Letter to be sent with Proposal.

Sir, [*Supply the Date.*]

I beg to forward to you a Proposal for Improvements to be made under the Act for [*give Title of this Act*], and I request that you will inform me whether there have been any Improvements already made which either wholly or partially prevent the making of the proposed Improvements, and that you will furnish me with any other Information applicable to the particular Case.

I am, Sir,

Your most obedient Servant,

[*Tenant to sign his Name.*]

To the Commissioner of Improvements,
Dublin.

LETTER No. 2.

Letter to be sent to the Commissioner after the Improvements have been made.

Sir, [*Supply the Date.*]

I beg to inform you that I have completed the Improvements proposed to be made in the Proposal of the Day

Supply Date of Proposal.

I am, Sir,

Your most obedient Servant,

[*Tenant to sign his Name.*]

To the Commissioner of Improvements,
Dublin.

SCHEDULE (D.)

Sir, [*Supply the Date.*]

I beg to inform you, that before the Completion of the Improvements mentioned in the Proposal of dated the Day of the Tenant has been evicted [*or* has died, and that the Tenancy has determined].

Supply Name and Date.

I am, Sir,

Your most obedient Servant,

[*To be signed.*]

[*When the Party is dead who made the Proposal, and his Representatives write the Letter, this should be stated after the Signature thus,*]

Executor or Administrator of [*Name of Tenant*].

A

BILL

INTITULED

An Act to provide Compensation for Tenants making Improvements, and to create Charges in favour of Landlords in respect of Improvements by Tenants or Landlords, in *Ireland*.

(*Presented by The Lord Stanley.*)

Ordered to be printed 9th June 1845.

(196.)